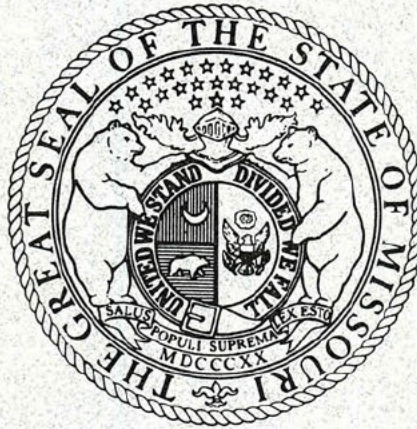


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**PROCEEDINGS
OF THE SPECIAL COMMITTEE
ON IMPEACHMENT**

**IN RE SECRETARY OF STATE
JUDITH K. MORIARTY**



MISSOURI HOUSE OF REPRESENTATIVES

*First Extraordinary Session
of the Second Regular Session
of the 87th General Assembly*

**PROCEEDINGS
OF THE SPECIAL COMMITTEE
ON IMPEACHMENT**

**IN RE SECRETARY OF STATE
JUDITH K. MORIARTY**

*September 22, 23, October 3, 4, 5, 1994
State Capitol, Jefferson City, Missouri*

Bob F. Griffin, Speaker

Members of the Committee

*Representative Gary Witt, Chair
Representative Steve Gaw
Representative O.L. Shelton
Representative Mark Richardson
Representative Connie Wible*

MISSOURI HOUSE OF REPRESENTATIVES

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of the Second Regular Session
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Preparation of the Transcript

The five days of proceedings of the House Special Committee on Impeachment were recorded on audio and video tape by the House Information Center, under the supervision of Gene Rose, Director of Broadcast Services. The transcript was initially prepared from the audio tape.

Members of the House Research Staff who attended the hearings compared the transcript to the video tape to insure accuracy. In the few instances where the tapes are unclear, the word "inaudible" is inserted. Darrell Jackson, Director of Research, was responsible for final preparation of the transcript. Judy Owens and Dianne Bisges of the House Research Staff typed the final version of the transcript.

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PROCEEDINGS

September 22, 1994

REP. GARY WITT, CHAIR: The committee will come to order. Section 610.020 RSMo requires that public governmental bodies give notice of meetings at least twenty-four hours in advance, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible must be given. When it is necessary to hold a meeting on less than the required notice, the nature of the good cause justifying that departure must be stated in the minutes.

In accordance with that latter requirement, let the record show that the notice of tonight's meeting was given as soon as the committee was appointed, that both the press and other members of the public as well as the Secretary of State were well aware that the impeachment proceedings were being conducted in the House today and were already present, and in the interest of economy, holding a meeting tonight takes advantage of the fact that members of the House are in Jefferson City and could take up any report of the committee tomorrow, if it should be the decision of this committee to make that report to the House as a result of this meeting. Before we begin I would like to state for the record that there is at least one individual who has come to me and threatened me, that if I vote to impeach the Secretary of State that they will hound me until they get me removed from office and have threatened to try to attempt to bring criminal proceedings against me. I don't know if any of the members have

also had that kind of a threat. I know that I do not take that kind of a threat seriously and I've been threatened to be sued, and I've been threatened before, but it will not affect my decision on this cause and I know that the Secretary of State was not responsible for the actions of that individual, but I would like any member that receives a similar threat to bring that to the committee's attention so that we can put it upon the record. Last week we received a call from the Governor of the State of Missouri under the authority granted in Article 4, Section 9 of the Missouri Constitution to convene the 87th General Assembly of the State of Missouri in a first extra session of the second regular session and to call upon the Senators and the Representatives of the General Assembly to meet at the State Capitol in the City of Jefferson at 12:00 p.m., Thursday, September 22, and that the action of the General Assembly is deemed necessary to conduct the matter specifically designated below:

1. To consider, as authorized and provided for by Article VII, Sections 1 and 2, of the Constitution of the State of Missouri, whether or not the House of Representatives shall be satisfied that there is good cause to impeach Judith K. Moriarty, Secretary of State of the State of Missouri, for the reasons delineated by Article VII, Section 1 of the Missouri Constitution, and if so, pursuant to Chapter 106 RSMo, to cause Articles of Impeachment to be made out in due form against

Judith K. Moriarty, Secretary of State of the State of Missouri. If said Articles of Impeachment are made out in due form against Judith K. Moriarty, Secretary of State of the State of Missouri, the House of Representatives shall cause said Articles to be made out, to transmit the same to the Supreme Court and to immediately elect managers to prosecute such impeachment. That is the call that was presented to the House. Today the House did vote to appoint this committee to convene and determine whether or not there was good cause. The statutes particularly provide if the House is satisfied that there is good cause to impeach any officer they shall cause the articles of impeachment to be made out and transmit those to the Supreme Court. This committee is considering whether or not there is good cause. The ability to impeach, the grounds for impeachment are for a crime, for misconduct, habitual drunkenness, willful neglect of duty, corruption in office, incompetency, or any other offense involving moral turpitude or oppression in office. We have before us an indictment that was issued in the State of Missouri vs Judith K. Moriarty, case number CR19497M, in the circuit court of Cole County. The third count is the relevant count to this proceeding this evening. The third count states that the grand jurors of the county of Cole, State of Missouri charged that the defendant Judith K. Moriarty for count three and in the alternative to count two in violation of section 570.110,

RSMo, committed the Class A misdemeanor of issuing a false certificate punishable upon conviction under sections 558.011 and 560.016, RSMo., in that on or about late April or early May in the county of Cole, state of Missouri, the defendant acting with others being authorized by law to administer and take oaths and affirmations of declarations of candidacy for the office of State Representative, an official instrument as described in section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the fact contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative, which declaration was partly blank in that it had not been signed by Tim Moriarty. And further knowingly directing and causing that the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the addition of the signatures of Tim Moriarty and Barbara Campbell the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara Campbell on March 29, 1994 at 1:19 p.m. and signed, subscribed, and swore or affirmed to the Declaration of Candidacy in her presence. The grand jury issued that indictment at that time. Later there was a jury trial held in Cole County and as to count three from that indictment they came back with, "As to count three we the jury find the defendant Judith K. Moriarty guilty of issuing a false certificate as submitted in

instruction number 10." Which was signed by the foreman of the jury. That is the original basis for why this committee was called and why we are here this evening. As one of the first issues that we probably should address, if we are going to go forward with more hearings, I believe this committee probably needs to be represented by counsel so that if we do arrive at the issue of going forward that we have someone who has been present at the hearings and is able to properly represent us if we do have to go before the Supreme Court. I would like to suggest a couple of individuals to the members of the committee for consideration. I would let other members suggest others if they so choose. I do have and I believe, Karen do you have copies of the resumes of the individuals? The two names I would suggest for consideration and I have talked to various individuals about who would be appropriate to handle this kind of an issue. Abe Shafer is an attorney in Weston, Missouri, and has served as a prosecuting attorney, he has also served as a judge, associate circuit judge for the state of Missouri. He was specifically hired as a special prosecuting attorney to prosecute a first degree murder trial where an individual was charged with stabbing and killing her two children. I watched him try that case and was very impressed with his talents. He has indicated that he would be willing and would clear his calendar to be able to represent the committee if we so choose. The second individual that I have talked to is a gentleman named Mark Richardson. Not the one that is on the committee. He is an attorney here in Jefferson City, first served as an assistant

prosecuting attorney and has run for Judge here in Cole County unsuccessfully. From talking with the Cole County Prosecutor that he used to work under, there was nothing but praise. I would, I think either one of these individuals would be good or I would take any other suggestions that any other committee member may have. But I think that is something we need to consider at this time.

REP. MARK RICHARDSON: Mr. Chairman, are you going to ask us to vote to select one of these right at this moment?

WITT: We do not have to select one right at this moment. I will make copies of the resumes available to you if you'd like to wait and consider that.

RICHARDSON: Well, I guess I'm a little confused. You're saying and I agree with your wisdom, that this committee in anticipation ultimately of perhaps presenting the case to the Supreme Court should hire outside counsel and I agree with you on that. It is my understanding from your comments today and discussions later this evening that we may in fact proceed tonight with an article of impeachment. It seems to me that if we are going to need outside counsel for any possible subsequent articles that we will certainly need one for tonight and for the proceedings tomorrow as well. Are we going to proceed tonight with certain actions without that counsel present?

WITT: I think that, and I'm not suggesting that we are definitely going to be coming forward with any kind of article this evening. It is an option that is available to the committee. I think that

there is not time to - since we are doing this this evening to get that counsel present. I think that if we go further that we should have counsel present. I don't think it is necessary right this evening.

RICHARDSON: So your suggesting that we would, perhaps, have time to review these resumes?

WITT: Yes, I would be glad to let you have some time and we'll have someone go out and copy those for you. I thought I had already had them copied for you and I apologize.

RICHARDSON: I do like the second one's name quite a bit. (laughter)

WITT: I think at this time it is appropriate that we also discuss some of the rules regarding these proceedings. In order to facilitate an appropriate proceeding, I am requesting no flash photography in the proceedings and that there be no standing room with the exception of photographic individuals, people, for the press who need to take photographs who will be limited to this area up here or to the back of the room. The only standing that we will allow if the chairs run out and there are members of the General Assembly who wish to be present in the hearing room, we will allow them to come in and stand. But we do want to keep the aisle as clear as possible to proceed with these hearings. We do have video tape set up that is being transferred into the next room so that the television media can pick up on these proceedings. At this time I would like to call Richard Lee to testify before the committee. Is he in the hearing room? Can

you see if you can find Richard? Also under the rules we passed today there is a rule that calls for any individual who is going to be testifying before the committee not to be present during the testimony of other witnesses. I will make the exception for the Secretary of State herself because she is the subject of this and I believe she has the right to be present and her counsel. I would ask that if there is anyone else here who wishes to be a witness that they leave the room. We can, we will call you at such time as your testimony is necessary. But we would ask you to leave at this time. As we proceed I would like to point out for the record that each member has been given a copy of all of the transcripts and documents from the hearings of the management committee that looked into the office of the Secretary of State. We also have various documents that were provided to us by the prosecuting attorney of Cole County concerning the trial that was held at that time. Mr. Lee will you raise your right hand. Do you solemnly swear or affirm that the testimony that you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth so help you God?

RICHARD LEE, WITNESS: I do.

WITT: Would you state your name?

LEE: Richard Lee.

WITT: And what is your occupation?

LEE: Investigator for the Cole County prosecuting attorney's office.

WITT: And how long have you served in that capacity?

LEE: Ten years.

WITT: And did you work on the case State of Missouri vs Judith K. Moriarty?

LEE: Yes, I did.

WITT: And what was your capacity in working on that case?

LEE: I was the investigator on the case.

WITT: And what did that entail?

LEE: Basically it entailed gathering all the documentation and information and interviewing the witnesses or potential witnesses in the case.

WITT: And did you interview those witnesses?

LEE: Yes, I did.

WITT: Okay. Who all did you interview in connection with that case, that you can recall?

LEE: I interviewed a number of people, mostly office staff in the Capitol office along with numerous individuals in the Secretary of State's Elections Division office along with other people that came up from Labor Standards, and witnesses "inaudible".

WITT: Okay. And of the people you interviewed, were there any individuals you think their statements would be relevant to this hearing?

LEE: Well, I think there are several people's statements that are relevant to the hearing.

Certainly Mrs. Campbell's statement.

WITT: Okay. When did you interview Mrs. Campbell?

LEE: I initially interviewed Ms. Campbell on June 28th.

WITT: Of this year?

LEE: Of this year, 1994.

WITT: Okay. And what was the nature of that interview?

LEE: The nature of the interview was to find out what information she had concerning the allegations that had been made.

WITT: Okay. What did she tell you?

LEE: Basically what she told us at the time was that on the 21st of March, sometime between 5:30 and 6:00 Tim Moriarty had come into the Secretary of State's office. Went back into the office with his mother and they had talked for awhile. Sometime later she was called back into Mrs. Moriarty's office and was instructed at that time by Mrs. Moriarty to take her son into the outer office and file the paperwork for candidacy.

WITT: Okay. And did she indicate she had done that?

LEE: Yes, she took him into the outer office and proceeded to file, start the paperwork.

WITT: Was there anything else pertinent that she told you?

LEE: Basically she goes through and outlines that during the conversation with Secretary Moriarty and also with Tim there was some question,

number 1, on if he was going to file that day because there was some problems with his employment in and of the fact he did not know whether he could maintain his job with Labor Standards and also run a campaign. So they were wanting to just get the paperwork initiated at this time and then sometime later file the paperwork. So basically what happened was that she took Tim to the outer office and he gave her the fifty dollar filing fee. She created or filled out the receipt for that and then filled out candidacy paperwork and signed it and gave that to him. And those items were then stapled together and placed in Nadine Barrow's drawer, in a bottom drawer. Normally when a candidate files there is a file folder at the first of the file drawer, in front of the file drawer where all the paperwork is filed. Tim's paperwork was put behind these items so it would not be included in the filing for that 21st day.

WITT: Did she indicate who had instructed her to file it in that manner?

LEE: She had, she was told by Secretary Moriarty and Tim that that was the way the paperwork was to be done.

WITT: Okay. Did you interview her at any other time?

LEE: Well there was, that was the statement I took. She also testified in the Grand Jury and there was a deposition taken and there will probably be a trial transcript from her testimony at the trial.

WITT: Okay. Were all of those consistent with the, her statement she originally gave

you?

LEE: Yes, it was.

WITT: Who else did you interview in the course of this interview that you think will be pertinent to this proceeding?

LEE: I interviewed Joseph Carroll. On the 15th of June is when I became aware of the allegation when we received a letter. So I was instructed along with the Grand Jury subpoena to go over and obtain the filing records on Tim Moriarty. I talked with Joseph Carroll that day. I subsequently talked with him again on the 16th, which was a day later. And I think I had another interview with him sometime later plus a statement from him. Basically what Mr. Carroll had told me during this time period that he was not aware of the filing problem at the time. That no one had contacted him about the filing problem initially. Later interviews he told us later on then that he was contacted while in the Capitol office along with Randy Sparks and Carolyn Smith. They were all standing in the office when Barbara Campbell had told them their was a problem with the filing. Talking with Miss Smith and Mr. Sparks they both knew nothing of this conversation. Mr. Carroll when asked about talking with this with Mrs. Moriarty herself and the filing problem had no real recollection of that. His basic statements were that he did not find out until after it had been discovered sometime later when they had come to him and talked to him about . . .

WITT: Let me interrupt and say if any member of the committee wishes to ask additional

questions that you feel I'm missing something or not covering it, I'm just trying to "inaudible" but feel free to jump in or you can wait and once we have gone through you can ask additional questions if you so choose. Feel free to holler. Was there any other pertinent information that you received from him?

LEE: Basically just the method of filing. How the filing should be handled. In that an individual would come in, pay the fifty dollar fee, fill out the paperwork, at that time a document would be created in the computer. It would then be file stamped with the date and time from a clock. Then they would in the computer initiate the same date and time on the candidacy paper. So essentially there were two items that had to correspond. On the docket of Tim Moriarty's, the paperwork that he filled out, the candidacy paperwork he filled out in long-hand had the 21st date on it. The paperwork that was generated that later bore his signature as the candidacy papers was filled in on the 29th. So you had two separate dates. Mr. Carroll could not explain that and said this was highly irregular and this should not have happened.

WITT: Was there any significance in those dates?

LEE: Well, other than being eight days apart a candidate should have been filed on the same day that the documentation was filled out.

WITT: Okay. Was there any other pertinent information that you received?

LEE: That basically is the

extent of the information for Mr. Carroll.

WITT: Okay. Who else did you interview in regard to this?

LEE: I interviewed Tim Moriarty. I interviewed Tim Moriarty on the, would have been the 16th. I drove to Kansas City and met him and interviewed him in Kansas City. At the time in talking with Mr. Moriarty he told me about his, what had happened, or what he had been doing on March 21st. Basically what he had said was he had drove to Jefferson City sometime mid day, early afternoon, got down here and went over and talked to Colleen Baker who was his boss at Labor Standards. And his own words were "I blew her socks off when I told her I was going to file." Colleen expressed some concern to him about this situation. One, not knowing if an employee could run for an office and maintain employment and two, potential conflict between the labor, collecting money from labor and also being someone that was investigating labor at the time. Colleen had asked him for some time to get an answer from the Governor's office or from her boss or some type of legal advisor on if there was going to be a problem. Tim then stated he left there and went over to his mother's office, went in and talked to his mother for a while concerning this. His mother was concerned about his employment and if he had notified the right people and gotten the right permission to run for office. Stated that he went into the outer office with Mrs. Campbell to file the paperwork. Once he went into the outer office he said that he filled out the paperwork that we saw and that there was a

Declaration of Candidacy paper generated in the computer. He said he did not sign the paperwork at that time but that he did look at the paperwork and he said he could remember this because he remembered his name. His story was at the time that Mrs. Campbell had told him not to sign the paperwork and that she had talked him out of signing this paperwork. Further talking with him it had been, too, that he was in his own control, he could have signed the paperwork if he wanted to, but that he acted on Mrs. Campbell's advice. Stated that he did not sign any paperwork and that he did not have a copy of this Declaration of Candidacy. This interview was on like June the 16th. Then approximately it was, let's say the 22nd of, 23rd of June, I received a phone call from Mr. Moriarty. He came to my office and at that time handed me a copy of a Declaration of Candidacy form. This form had been filled out and signed but the date and time was not on the form. He did not have the original. I asked him where he had gotten this or where he had found it. He told me at the time that he had, the day prior was the 22nd, he had a news conference to tell everyone that he was not going to take the office, that he was pulling his candidacy. And he had been going through some paperwork to call his supporters to let them know so they would hear from him first. And in going through this paperwork is when he found this document. I took the document from him at that time, preserved it for fingerprints. I asked him who had given him this document. He said that Barbara Campbell had. Later fingerprinted the document, compared Barbara Campbell's prints. There were

prints on the documents. Mrs. Campbell's prints were not found on the document.

WITT: Did you identify any prints on the document?

LEE: No, we did not have any other fingerprints at the time for comparison.

WITT: Okay. Is there any other relevant testimony that he gave or statements that he gave you?

LEE: I think later in a state, oh I'm sorry, in a Grand Jury, in talking in there he stated that he'd had asked Barbara Campbell about the possibility of holding his paperwork. And he said at that time he wasn't sure he wanted to do that but that he was pondering it and that Barbara Campbell had never gave him an answer one way or the other if she would.

WITT: Did he indicate that he ever made any attempt to get that paperwork properly filed after that?

LEE: There were some conversation between him and his mother. I think his mother in my interview with her said that he had called on the 29th to make sure everything was filed, to check everything. I'm not sure if Tim had told me that.

WITT: Okay. (End of tape #1) Is there anyone else that you interviewed concerning this issue?

LEE: Nadine Barrows is another witness that we interviewed. Miss Barrows initially when we talked to her, and I believe it would have been on the 16th or 17th, had no recollection of the incident at all. In fact she thought she was not

working that day. She told us she was not there at the time that the filing occurred. She knew nothing about it. Had not seen any of the paperwork. Did not know anything about it. On, I believe the 22nd Miss Barrows typed up a statement which she gave to the press. In the statement at that time she stated that she had been away from her work station, had come back to work and had been told by Barbara Campbell that Tim had filed but he was holding, he was holding the paperwork until he could check out a couple of things. She knew the paperwork was in the lower drawer. She stated she never looked at the paperwork, did not know what the paperwork consisted of, and never had any dealings with the paperwork at the time. There were some conversations between her and Barbara Campbell concerning the paper. The interesting thing about Miss Barrows is approximately a week or so before the trial she contacted us to tell us that she then remembered that she had wadded up Tim's Declaration of Candidacy that night and threw it away. Which was in direct contrast from the three prior statements she had given us at the Grand Jury and at the statement that I had took on the 23th, plus my initial interview. She also, at the, when she made her statement on the 22nd, the type she said that she remembered deleting I believe is "inaudible" is again in contrast to the initial statement that I took before that time.

WITT: Did she say why she deleted his name and wadded up the paperwork?

LEE: Basically the reason why she deleted the name is because each night after every candidate

is filed there is a list that is created from the computer that gives the name of everyone is posted outside the door. If they did not take his name out of the list it would have appeared on the 21st, the 22nd, the 23rd, the 24th. That name, as far as we were able to determine never appeared. So either it was not created in there or it was deleted out. That is why it had to be deleted out because it would have been on there and the paperwork would have been filled out if the computer, because that list is generated once entered into . . .

WITT: I'm not sure I'm following. So she indicated that she deleted it out of the computer on what date now and wadded up the paperwork?

LEE: Okay, wadding up the paperwork came two weeks before our trial. Our trial was I think, like the 4th or 5th. That was when she wadded up the paperwork. Okay, she talks about . . .

WITT: Now was that when she said, is that when she contacted you and told you she had wadded it up. Did she indicate at what time she had wadded it up, I guess is my question.

LEE: She wadded it up sometime during that week time period that it was in her drawer. Which is in direct contrast to our conversations with her in the prior incidences when she had told us she had never looked at the paperwork, did not know what the paperwork consisted of, and didn't have anything to do with the paperwork.

WITT: Okay and at the same time she said she wadded up the paperwork she also said she . . .

LEE: No. Prior to that she had told us prior to that she had deleted the name out of the file. That the name was in there and Barbara Campbell or her one had deleted the name out of the file.

WITT: And she didn't recall whether it was she or Barbara Campbell who deleted the name from the computer file?

LEE: That is correct. I think she later may have said it was her but I think initially it was one of the two of them, but it may have been her.

WITT: Okay. Did she indicate why she had, who had, had any one instructed her to wad up the paperwork and do that or was it her own initiative? What or did she give any indication about that?

LEE: I'm not sure we went real far into it. We were a little concerned at that time about her statements that the Grand Jury and then disclosing this new information. She had an attorney.

WITT: Okay. Was there any thing else relevant that she gave you during this time period?

LEE: No.

WITT: Are there any of the witnesses or individuals that you interviewed during the investigation that you feel are relevant?

LEE: Judith Moriarty.

WITT: Okay. And at what time did you interview the Secretary of State and what was the nature of that interview?

LEE: I conducted two

interviews with Ms. Moriarty. The first was one June 16th in her office with Mr. Brown present and Mike Gilligan from the police department who was assisting in the investigation. At the time Miss Moriarty had told me that Tim had come into the office and that he had told her he was coming in to file upon that day. She had asked him if he had discussed the matter with his employer. And she wanted, she was concerned about the running, at the time she said at this first interview that he had not discussed this matter with them. We then talked about the paperwork. I asked her about the paperwork and what it consisted of. Ms. Moriarty had somewhat of a working knowledge of what paperwork would be needed to consist of the filing. She had asked Barbara Campbell to do the filing of Tim. We also discussed the matter of the employment.

WITT: What did you mean "to do the filing of Tim?"

LEE: To take him in and create the paperwork.

WITT: Okay.

LEE: Is what she said. In talking with Ms. Moriarty she was, we kind of went back from one side to the other side. It was "yes, I knew that Tim, I didn't want Tim to file that day because he didn't have a good answer." And on the other side she would say, "But I thought he was filed." Which was in direct contradiction of what she was saying. And in trying to pin her down one way or the other, we couldn't do that. I was, one minute she was saying, "I didn't want him to file. I wanted him to hold off until he got the

answer, until he talked to the employers." But then she would also say, "but I thought he was filed that day." And in that interview talking with her the interesting thing was when she found out and how she found out.

WITT: Well let me just say, I think Mr. Richardson has a question.

LEE: Yes.

RICHARDSON: If you would expand on that a little bit further why are those two statements contradictory?

LEE: They are contradictory in and of the fact in one minute she was saying he was filed that day, that he'd filled out the paperwork and everything was done and he was filed that day. The next minute she would say, "He didn't file or I didn't want him filing that day because he didn't have a clear answer and I wanted to make sure everything was all right."

RICHARDSON: So now you have really confused me because you have said two different things. A minute ago I thought I heard you say that she was making contradictory statements because of on the one hand she really wasn't sure if she wanted him to file, but then she said that I thought he was filed. I don't see anything contradictory about that. But then when I questioned you further you said that she was saying one minute she thought he was filed and one minute she wasn't. Now, which is it?

LEE: Okay. If that is part of the problem with the conversation with her is she was saying in our interview that Tim, that she

wanted Tim to hold off in filing, until he got a clear answer from them.

RICHARDSON: Stating that as her personal preference in the situation.

LEE: Yes. On the other hand she was saying "But he was filed that day."

RICHARDSON: Okay. Do you see those two as contradictory?

LEE: In and of the fact of the discussion beforehand where they're talking and she is relaying to him that "You need to get a clear opinion before you file."

RICHARDSON: Okay. I guess I'm still confused. I may tell my son I don't want him to go to the dance tonight but he may go anyway.

LEE: I understand what your saying.

RICHARDSON: And the two of those aren't contradictory. So, I guess I'm failing to see how, it seems like at this point your painting her statements to you as being contradictory or somehow elusive or deceptive or whatever but based on what you've said, actually what was said by her I don't see any contradiction or attempts to deceive there at all. But you say on one hand I really didn't want him to do it or I wasn't sure that I wanted him to do it but I think he did it anyway. I just don't see how that is somehow contradictory or misleading to you as an investigator.

LEE: I think my feeling was at the time that she was answering these questions that she wanted to initiate the paperwork but

didn't want the filing to occur.

RICHARDSON: Is that what she said to you?

LEE: I said that was what my feeling was.

RICHARDSON: She never said that though.

LEE: No.

RICHARDSON: Okay. Thank you.

WITT: Well, what else was there included in that first interview?

LEE: The other thing that was of interest was the discovery of the item. Or that the document had been up and signed and had been filed. She had, Tim had a, some paperwork due, that I think he was, there was some kind of fine assessed with on, I believe it may have been an ethics report. She had requested the document to be faxed over. That is when she discovered that it had not been signed. She then says that she contacts Joe Carroll concerning this. And Joe Carroll tells her it's a clerical error and that Tim needs to come in and sign this. I asked her specifically at the time if she had contacted her attorney, Mr. Sparks, or Mr. Brown, who was there with her that day. She told me no, that she had not contacted them. And then I asked her when she had let Tim know. And it was of my opinion from talking to her that she had let Tim know right away that the paperwork had not been signed. We go back on the 20th and interview Ms. Moriarty again. At that time she tells me that she had talked with Randy Sparks. And that Randy Sparks had given her the opinion and

that it was after, and Joe Carroll, both of them, and that it was after some length of time before she had called Tim and let him know. So there was, I mean there was totally different situation there.

WITT: And what was the date that she supposedly, or about that she had contacted Tim to let him know.

LEE: We are talking around the first part of May. Sometime in May, late April, early May. It was hard to pin point.

WITT: Did she indicate Tim had come in at that time and signed it?

LEE: No. We're not sure when Tim came in and signed it. Tim in his statement says that some male from elections called him and told him to come in and sign it. Contacted every male in elections, no one had called Tim or contacted him concerning this. So we're not sure when. I think we have one witness who says she sees Tim walking down a hallway, and it says he's heading in there to sign the document. We're not sure when this occurred. But that's the, no one in elections knew when Tim come in and signed the document or got the document for Tim.

WITT: Did anyone indicate that they had seen him sign the document or had gotten the document for him to sign?

LEE: No one saw him sign the document, no one got the document for him.

WITT: Okay, You did have a document that came forth that was signed by Tim Moriarty. Was there a document ever

produced or . . .

LEE: Yes, when we initially subpoenaed the items out of the file there was a signed document.

WITT: Okay, and that was the Declaration of Candidacy?

LEE: Correct.

WITT: Okay. And that document, did it have a time and date stamp on it as to when it was filed?

LEE: Yes.

WITT: And what was the date, do you recall?

LEE: The 29th, March, 1994.

WITT: Okay. And was there a date with the signature as to when it was signed or . . .

LEE: No.

WITT: Okay so the only . . .

LEE: The document had been created and dated for the 29th. It was not signed until sometime in April or May, whenever he signed it.

WITT: He said that he actually came in and signed that document in May or sometime later. Is that correct?

LEE: Correct.

WITT: And did he indicate he had not signed it back on the 21st when he was in the office, or the 29th, when it was stamped?

LEE: On the 21st, initially he said he did not sign the document. He later then produced a document, that was a

copy, that was signed, that had, that did not have a date, time generated on it, he regenerated.

WITT: Okay. And then we have another witness that says that she wadded up and threw away the document that he had filed back then. Is that correct?

LEE: Yes.

WITT: Okay. Yes.

REP. CONNIE WIBLE: Were there any witnesses that saw the document that was filled out but unsigned?

LEE: Barbara Campbell would have been a witness to this and Gene Wiseman saw the document unsigned. Juli Rodenburg saw the document unsigned.

WIBLE: And what were those time periods?

LEE: What we're, Barbara Campbell would have saw it at the time that it was created. Juli Rodenburg, Gene Wiseman, Ms. Moriarty herself, would have saw the document that was unsigned at the time it was discovered, some time in late April or early May.

WIBLE: Did each of these people testify that they saw it unsigned?

LEE: At what proceeding? I mean, it, they were, in the Grand Jury they all testified, at the trial not everyone testified, or I'm not sure who all testified.

WIBLE: Do you have statements from these people that on particular dates they viewed that document and that it was unsigned when they viewed it?

LEE: Gene Wiseman yes, Juli Rodenburg and Ms. Moriarty would have seen a faxed copy of the original when it was faxed from the office over in the . . .

WITT: Information center.

LEE: Information center to Ms. Moriarty when she requested it.

WIBLE: And were there dates associated with those?

LEE: The date that it was faxed over?

WIBLE: No, the dates that . . .

LEE: No, there was nothing. There would have been a date on the document of the 29th, March 29th.

WIBLE: But the date that it was witnessed unsigned by other than Ms. Moriarty.

LEE: Would have been sometime in April or May.

WIBLE: Thank you.

WITT: Okay, go ahead, Representative Gaw.

REP. STEVE GAW: Thank you, Mister Chairman. These statements that you are referring to in regard to the statements that you took, are those statements that were reduced to writing?

LEE: Yes.

GAW: And were those statements signed by the individuals who gave the statements?

LEE: Well, we took sworn statements with a court reporter at some point in time. Okay, and there were some interviews

that I did. There were also Grand Jury testimony and transcript.

GAW: All right, now the interviews that you did . . .

LEE: Yes.

GAW: You, I want to know whether those interviews were reduced to writing.

LEE: Yes.

GAW: And did those individuals that you were interviewing at that time have an opportunity to read those statements after they were reduced to writing?

LEE: No.

GAW: All right, so these were statements that you took and you reduced to writing. Is that correct?

LEE: That's correct.

GAW: And when you took those statements, were they statements that you reduced to writing word for word or were they summaries of statements?

LEE: Summaries.

GAW: And those summaries, do we have copies of Mr. Chairman?

WITT: Yes, I believe that on your, on each member, there should be a file folder.

GAW: I have some copies in front of me. I just don't know if those are the same statements that we've been referring to as summaries of statements.

WITT: There are summaries of statements of witnesses and then I believe there are also

witness statements which are the sworn statements which were transcribed.

LEE: Let me say one thing. The summaries of statements deal with the Grand Jury testimony or statements that were taken with a court reporter. I interviewed would be in a report form like this.

WITT: And those are not in your file. We can get those copied for you.

GAW: So some of the statements that you have been referring to that you took we do not presently have?

LEE: That is correct.

WITT: Correct.

GAW: Okay. Now these summaries of statements that we have in front of us from Grand Jury testimony and the ones you referred to as being taken by a court reporter are those that are in front of us, those are summaries that were made by whom?

LEE: Richard Callahan.

GAW: By the Prosecutor here in Cole County? Are the original full length statements that were taken by the court reporter, are they included in our packet?

WITT: Yes, the statements taken by the court reporter are in your packet. The Grand Jury testimony is not. We do not as of yet have a copy of that.

LEE: It should look something like this.

GAW: Okay. Thank you, Mr. Chair.

WITT: What else came about from your interviews with Judi Moriarty?

LEE: I think that is the basis of it.

WITT: Okay. And that includes the, were you involved in taking the sworn testimony in front of the court reporter also?

LEE: Yes.

WITT: That is included in what you've told us already?

LEE: Yes.

WITT: Were there any other witnesses that you talked to that you felt would be relevant? I'm assuming there were some that didn't tell you anything that was really relevant to the case. They didn't see anything, they didn't know anything.

LEE: I interviewed a lot of witnesses in this case. You know, what's relevant to you, I don't know.

WITT: But in regard to the filing, the individuals that you talked to is what I'm asking that claimed to have some knowledge of the filing, have seen the documents, or that type of issue. Were there any other individuals you interviewed that you felt were . . .

LEE: No.

WITT: Okay. Were there any documents that were produced that gave credence or did not give credence to any of the statements that you received? Were there subsequent documents that you received on any kind of substantiation of any of the witnesses that you felt gave them creditability or did

not?

LEE: Why I think the filing documents in and of themselves speak for themselves in and of the date conflict and time conflict on the documents.

WITT: Okay. I keep seeing people move on each side of me and I want to make sure they're not trying to ask a question. I apologize.

GAW: Can I inquire please? I want to go back to something you were talking about earlier with Representative Richardson in regard to the statements of the Secretary of State and in regard in particular to what her testimony, what her statements were to you about not wanting her son to file. Because I'm still not sure if I, I think I understand what your saying, and I understand what Representative Richardson is saying and I don't think the two of you are saying the same thing. I may be wrong. I want to explore that. Do you have her exact statement, first of all do you have her exact statement reduced to writing in regard to her not wanting him to file that was made on June 16th?

LEE: No.

GAW: Okay. To the best of your recollection can you tell me what her words were in regards to her feelings on his filing?

LEE: It may be easier just to read to you what I wrote if that will help?

GAW: That's fine.

LEE: Okay. I asked Ms. Moriarty if she knew when Tim had filed his candidacy paperwork and filed for the seat.

She stated that she knew that he was going to file for the office on March 21, 1994. Tim had come into the office on that date to file, she had asked if he had discussed the filing for the seat with his employer, Labor Standards. Ms. Moriarty stated her concern with Tim getting approval from his employer prior to his filing. Ms. Moriarty stated when she had talked to Tim he had not discussed the matter with his employer and he did not know if he would be able retain his job with Labor Standards while running for the House seat. Ms. Moriarty stated that this was a concern, this was his only source of income. Ms. Moriarty stated that she knew at the time that Tim had not received the approval of his employer for his filing for his candidacy for the House. Ms. Moriarty later stated that Tim had felt like he had filed on that date in question. Ms. Moriarty then stated that Tim thought he had completed the paperwork and she also thought that he completed the paperwork on the 21st. I asked her if she had looked at the paperwork on the 21st. She stated that she had not seen the paperwork. I asked Miss Moriarty why the paperwork had not been stamped and the Declaration of Candidacy for nomination had not been dated and signed on the 21st. She did not know why this had occurred. I then asked her if one of the reasons why he did not sign the application was that he was waiting for a response from his employer and the Governor's office and she stated yes that was one of the reasons.

WITT: Thank you. You interviewed both Judi Moriarty and Barbara Campbell and there has been some talk that

there is significant conflict between the testimony of those two individuals or the statements of those two individuals. Can you detail what the differences were between their stories as you saw them?

LEE: Let me answer, one thing.

WITT: Okay.

LEE: If you read both their statements in the Grand Jury statements you'll get a better feel for that. I have not had a chance to review Ms. Moriarty's Grand Jury testimony and also Barbara Campbell's Grand Jury testimony. All I have is what the statements said. And I don't have a statement of Ms. Moriarty, other than my notes which I had. I think it would be better served if you all read those rather than me trying to give you a synopsis. I think it is basically consistent up to the point of her saying go in and file the paperwork or don't go in and file the paperwork. I think everything else, basically, up to that point the only other differences I can think of is, I think Ms. Moriarty has Tim in the outer office and her coming out to meet him. And Tim and Ms. Campbell have them in the inner office, in Ms. Moriarty's office where they have a brief meeting. I would feel more comfortable to let you all look over it.

WITT: Okay. We do not have copies of the Grand Jury testimony although we are attempting to acquire that. (End of tape #2). I think it would assist the members, if we took a recess for 30 minutes or so and allow each member to review the witness statements that we have in the packets and have Mr. Lee

come back at that time so that if there are any additional questions you'll be able to ask him at that time. Is there any objection to that? Seeing none, we are going to recess. Why don't we give it a little bit better than 30 minutes and come back at 9:45, well recess until 9:45 and reconvene at that time.

• RECESS •

WITT: A couple matters of housekeeping. I've received, two written request from Marvalene Pankey. Both of these are requests to testify before the committee. Provided copies of these to all of the members. I do not see anything in here that appears to have any first hand knowledge of the actual events that are giving rise to this proceeding. And therefore I am not going to allow the testimony, at least at this time. Also while we were in recess we did receive copies of the transcript of the Grand Jury testimony, copies of that had been provided to each one of the members for their consideration. That is all that we have at this time. We have Mr. Lee. You will recall that you are still under oath at this time? Is there any, after reviewing the statements, is there any further questions of members of this committee? Mr. Richardson.

RICHARDSON: Thank you Mr. Chairman, just a couple. Mr. Lee, referring back to the statement you took from Nadine Burrows. Burrows, it's b-u-r-r-o-w-s?

LEE: Yes, sir.

RICHARDSON: And when did you take that statement from her?

LEE: Which one?

RICHARDSON: Well how many statements did you take from her?

LEE: There was an interview on June 17th.

RICHARDSON: Was that your first contact with her?

LEE: Yes.

RICHARDSON: And at that point it was an oral statement or an oral interview that you conducted with her?

LEE: Yes.

RICHARDSON: And then did you later take, or interview her further?

LEE: Yes. There was a statement taken on July, or, I'm sorry, June 23rd. And then there was a Grand Jury testimony on June 30th.

RICHARDSON: Okay. What we, I have three documents here. One says statement, says Shirley Nadine Burrows, Burrows, Statement of June 23. But that appears to be just your notes of an interview. Is that right?

LEE: No. What that is is a sheet that was prepared by Mr. Callahan from her statement that was done with a court reporter on June 23rd, referring to this.

RICHARDSON: Okay. So this document,

WITT: Representative Richardson, do you have the

actual statement?

RICHARDSON: You know somewhere in the middle of these ten thousand pages I probably do, Mr. Chairman.

WITT: Okay.

RICHARDSON: I haven't found it yet.

WITT: Okay. I'm sorry. Proceed.

RICHARDSON: Let me just clarify what I've got, what I'm looking at here. The first document I've got here says Shirley Nadine Barrows statement of June 23rd.

LEE: Correct.

RICHARDSON: 1994, now that is just some cryptic note is basically what it is. A series of some incomplete sentences and so forth. That appears to be some sort of a summary that someone has made.

WITT: Can you show him the document?

LEE: I know what he is referring to. I think, I'm not sure, but I think the numbers that are on the side. The 4, the 5, the 6, the 7 refer to, I believe, pages. And are what Mr. Callahan thought was important in her statement.

RICHARDSON: That's the Grand Jury statement?

LEE: No. The statement of Nadine Barrow.

RICHARDSON: Which was given on the . . .

LEE & RICHARDSON: 23rd.

LEE: Correct.

RICHARDSON: And we do have that statement as well?

LEE: Yes. There is a folder in your packet that says witness statements.

RICHARDSON: Okay. Now, then I've got another document that is not labeled at the top but is dated June 22nd. Which is, which appears to be a type written statement that Nadine Barrow has signed.

LEE: Correct.

RICHARDSON: So she gave a statement on the 22nd.

LEE: My understanding in talking with her is several members of the office, meaning the Secretary of State's office typed up statements. And then I think gave them to Ms. Moriarty's attorney, Mr. Brown.

RICHARDSON: Okay.

LEE: That was prepared by her on the 22nd. And then I believe on the 23rd when I took the statement from her she gave me a copy of her statement from the 22nd.

RICHARDSON: Okay. Then I have a third document that says Nadine Barrow's Grand Jury testimony June 30th. And again, these are just some notes and incomplete sentences and references to numbers. Were those page numbers or line numbers from her actual Grand Jury testimony?

LEE: I didn't prepare it but let me look and see if I can tell you from, yes, I think they are page numbers. If you look on the Grand Jury document, if you

have it. On the second page there is a list of witnesses, Nadine Barrows starts at 195, I think, which would correspond with that first number and go on down through 224, which I think is close to the last of her statement.

RICHARDSON: I can't find any numbers in this Grand Jury transcript that go up that high.

LEE: It, it.

RICHARDSON: I found it on the summary in the front.

LEE: Right.

RICHARDSON: But I don't seem to find those page numbers 195.

LEE: The pages, these, this is small print.

RICHARDSON: So she voluntarily wrote out a statement on the 23rd. Then a statement was taken, which was transcribed, excuse me, on the 22nd. Then a statement was taken which was transcribed by the Prosecutor on the 23rd. And then she gave testimony before the Grand Jury on the 30th. Is that right?

LEE: Yes.

RICHARDSON: Okay. Did she testify at the trial?

LEE: I was excluded at the trial because I was a potential witness. I believe she may have testified for the defense at the trial.

RICHARDSON: I was told that she had not testified and I was just wondering why she hadn't.

LEE: That would have to be a

question you'd have to ask the trial attorney.

RICHARDSON: You had indicated that in the statements, apparently, and we have not had time to read all of them, of course, but, on apparently on the 22nd, again on the 23rd, and apparently then on the 30th she had not made mention of the fact that she had wadded up or disposed of a Declaration of Candidacy. But then some time later she alerted you to the fact that she had recalled that she had in fact done that?

LEE: That's correct.

RICHARDSON: Okay. Did you question her as to why she had thrown that paperwork away or wadded it up or did something with it?

LEE: I personally did not. There was a conversation, I think, with her and Mr. Callahan, and also her attorney. I was present during it. I don't remember all the context of the conversation.

RICHARDSON: You did not question her on it though?

LEE: No.

RICHARDSON: Didn't it strike you at that time that that was something that was pretty important to follow up on?

LEE: Yes, sir, it did. But she was represented by an attorney at that time.

RICHARDSON: Was there any, was she instructed by her attorney not to answer anymore questions from you?

LEE: We basically, let me say this, I'm not sure we talked

directly to her. I think the conversation was with the attorney concerning this wadding up of paper. Now that I think back on it, I think the actual conversation was with the attorney. And we did not actually talk to her. He brought this information to us, or this, somehow Mr. Callahan found out about this information. We were going to talk to her and then for some reason it was decided not to talk to her. I wasn't a party to all of that.

RICHARDSON: But you and the Prosecutor had some information from her just two weeks prior to trial that there may in fact been a properly signed document that had been disposed of there in the Secretary of State's office?

LEE: Correct.

RICHARDSON: Was that presented to the jury?

LEE: Did it come out in testimony at the trial? I don't think so, I don't know. I wasn't in the court room.

RICHARDSON: Do you have any idea, since you are the only one here from the Prosecutor's office we've got to talk to I've got to ask you these question.

LEE: Sure.

RICHARDSON: I realize that you're at a disadvantage, but that would seem to be exculpatory testimony and I'm just wondering why it wasn't presented to the jury.

LEE: Well, you understand, she made prior inconsistent statements to a Grand Jury. So her coming back and saying something different could cause

a problem.

RICHARDSON: Well, it could, sure it might go to her credibility but it would still seem to me like you it would be testimony that would exonerate this lady that wasn't presented to the jury.

LEE: It could be an offense is what I'm saying. She could have, there could have been an offense there, a crime.

RICHARDSON: On her part?

LEE: On her part.

RICHARDSON: On Nadine's part?

LEE: Correct.

RICHARDSON: Not on Mrs. Moriarty's?

LEE: Correct.

RICHARDSON: Did you subpoena her to testify and did she take the fifth? Or was there some effort to solicit this testimony from her before the jury?

LEE: You need to talk with Mr. Callahan about that. I think you're getting into trial strategy and what the determination was on what evidence was presented.

RICHARDSON: Yeah. Okay. Thank you. There really is no dispute between Mrs. Campbell and Mrs. Moriarty that Tim Moriarty was in fact in the Secretary of State's office on the 21st. Right?

LEE: That's correct.

RICHARDSON: And there is no dispute that he did fill out at least part or all of a filing packet?

LEE: That's correct.

RICHARDSON: And leave a check and get a receipt? None of that is in dispute, right?

LEE: The way in which you're saying it, Mrs. Moriarty says she didn't see any of it transpire.

RICHARDSON: Right.

LEE: Okay. I don't think there is a dispute that he was there on the 21st and there was certain paperwork done on the 21st.

RICHARDSON: Okay. And there is no dispute, apparently, also that on the 29th, which was still within the filing time that he was in fact, by somebody, at somebody's direction, actually filed. Is that right?

LEE: He was filed and he was not present.

RICHARDSON: Okay. Apart from the fact that he was not present at the moment that it was certified and filed, what difference would it have made between his being filed on the 21st and the 29th?

LEE: I'm not sure I understand your question.

RICHARDSON: Well, if he were certified as being filed on the 29th when in fact he filed on the 21st, would it have made any difference in the election? Would that have caused him to be filed ahead of someone or behind someone?

LEE: I don't understand where your going.

RICHARDSON: In terms of his opposition or was there some undue advantage that was gained by his being certified at

1:00 pm on the 29th instead of at 5:30 pm on the 21st?

LEE: I don't know if there was unfair advantage or not. I think if you would talk to the other lady in that district she felt that she was somewhat of a disadvantage but, because of this whole circumstance. But, I mean, I don't . . .

RICHARDSON: The gist of it is he was present on the 21st but his filing document says that he actually filed on the 29th. And that's really what the crux of the charge is, right?

LEE: Correct. He was not present and did not, right. He was not there present and signed the document on the 29th when he was filed.

RICHARDSON: Okay. And there is dispute between Mrs. Moriarty and Mrs. Campbell about how that happened and who was responsible for it?

LEE: Correct.

RICHARDSON: Okay. That's all. Thank you, Mr. Chairman.

WITT: Are there any other questions of committee members? O.L.

REP. O. L. SHELTON: Mr. Lee, was there any attempt to get, verify a signature on Tim Moriarty, other than what was in the file? On the signature?

LEE: On the candidacy, on the Declaration of Candidacy?

SHELTON: Right.

LEE: Yes, sir. It was. We had a handwriting expert. We took handwriting exemplars from Mr. Moriarty. And had a

handwriting expert compare them with those on the document, The Declaration of Candidacy. And it was his opinion that it was Mr. Moriarty's signature.

SHELTON: Okay. Second question. Was there any attempt to get phone records to see if anyone from the Secretary of State's office had called Tim Moriarty from here, from Jeff City?

LEE: We obtained a lot of phone records. I don't know if you're aware, but the state blocks out the last four digits of a phone number. Now there are, were, numerous calls made in between this time period back and forth that went to the same, to Lake Lotawana, where Tim was living and to the same area code and first set of prefix numbers. I think it was 816-578, I think were the first numbers and that was the numbers that corresponded with Tim's number. So there were, yes, we did obtain phone records and there were those records on the 29th. There were phone calls back and forth. We got them for Tim's phone records and also from the other. We also obtained a message book out of Mrs. Moriarty's office like at 9:00 on the 29th where Tim had called and left a message for his mother to call back, to call him at home. So I mean yes, we, there were phone records obtained.

SHELTON: Thank you.

WITT: Any further question from members of the committee? Representative Wible.

WIBLE: Thank you. The sworn statement of Joseph Carroll

LEE: Yes.

WIBLE: on June 24th. I'm confused on some of the things that he said in this statement and maybe you can help clarify that.

LEE: I'll try.

WIBLE: He was asked when he found out that Tim Moriarty's candidacy papers were not signed.

LEE: Can you give me a number and page?

WIBLE: On page 6.

LEE: Just a moment please.

WIBLE: And then he said, his reply was that it would have been after the closing of filing time on March the 29th. And his testimony goes on to say that he said, "Let's get this corrected and get this signature." And that on page 10, the question, on the document there is an affidavit portion saying that this was signed on a specific date. That then would not be accurate correct, "That's correct?" So it appears from his testimony on the, he learned about this lack of signature after the closing date on March 29th and that the papers were actually signed following that. And that is your understanding of Mr. Carroll's testimony?

LEE: Following the discovery, yeah.

WIBLE: statement.

LEE: He did not remember when it was discovered. I think what he is saying in this is "I can't tell you." It was sometime after the filing date but he couldn't tell you when. And then

over here where your talking what I think what he's referring to is after it was discovered then it was signed. From everything that I've been able to learn I think we're talking about the discovery being sometime in late April, early May, in that time frame there. There is, I don't think there is anyone who can give us an exact date. There is a document that was filed for some, with the ethics committee that Mrs. Moriarty had requested. She needed some information and I think wanted to look at the signature on the documentation. And she had requested that document being sent over so she could look at it. And that's when it was discovered that it was not signed. So the actual discovery was made when she requested the document be faxed over to her so she could look at it.

WIBLE: One more question. I'm still confused as to Barbara Campbell's signature on the documents. When was that signature placed on the document?

LEE: After it was discovered, Barbara Campbell says she was called into Mrs. Moriarty's office, and I believe Jim Kolb and Mrs. Moriarty were in there. And they instructed her to go over and sign the document.

WIBLE: Prior to Mr. Moriarty's signature?

LEE: Barbara Campbell says "yes." That when she signed it hers was the only signature on the document.

WITT: Any thing further. Representative Gaw.

GAW: If I could follow up on that. All of this took place after

these signatures that we're talking about with Barbara Campbell and I assume later Tim Moriarty took place after the filing deadline.

LEE: Correct. The filing deadline ended March 29th. So the signatures that would have been applied to the document, I'm saying would have been sometime probably in early May when they were, when the document was signed.

GAW: Is there any dispute about that from any party that you've interviewed or taken statements from?

LEE: I don't think so. The problem is a specific date when it occurred.

GAW: But, is it, is there any dispute that it took place after the filing deadline?

LEE: No, there is no dispute.

GAW: And that's, that is the case with both the signature of Tim Moriarty and the signature of Barbara Campbell on the Declaration of Candidacy?

LEE: That's correct.

GAW: Is there any, is there a dispute among those that you have interviewed as to which signature of the two occurred first? If you know.

LEE: I don't believe so, I don't believe so.

GAW: But your understanding then, that Barbara Campbell signed first?

LEE: Correct.

GAW: Followed by Tim Moriarty?

LEE: Correct.

GAW: And that both of those signatures took place after filing deadline?

LEE: Correct.

GAW: Nothing further.

RICHARDSON: If I could just follow up for a minute.

WITT: Representative Richardson.

RICHARDSON: Thank you, Mr. Chairman. There is a double tracking here. One is the paperwork, the declaration of candidacy, and then there is also data input into a computer. Is that right?

LEE: Yes. I think . . .

RICHARDSON: Can you generate a second trail of paper from the computer entries?

LEE: I'm not sure I understand what you're saying.

RICHARDSON: I guess what I'm getting at is when a Declaration of Candidacy is presumably completed the paperwork, the packet itself, then from that packet there is data entered into the computer system. Is that right?

LEE: Correct.

RICHARDSON: Can you generate hard copies of whatever data goes into the computer system?

LEE: Let me answer it this way and see if I answer your question. We had, we seized all of the computers in the Capitol office. We got all the backup tapes off the computers. We had

an individual that we hired who has experience in computer equipment to try to help us determine, through going back into the computer and looking at either deleted documents to see if we could find those in the computer or what we could find. As far as the document that was created on the 21st we found no evidence of there being a document created on the 21st.

RICHARDSON: What about on the 29th?

LEE: On the 29th there was a document created on the 29th that was in computer.

RICHARDSON: At 1:19 pm?

LEE: At 1:19 pm.

RICHARDSON: And is there any code or initials that must be entered along with that to identify the person that entered that information?

LEE: No.

RICHARDSON: There is no way of knowing from the computer and the information that you got from the computer who it was that entered that in then?

LEE: No.

RICHARDSON: Okay. On the 29th Mrs. Campbell indicates that she was instructed to go ahead and process the paperwork. Is that right?

LEE: Correct.

RICHARDSON: Did Mrs. Campbell indicate to you whether or not she objected at that time to processing?

LEE: Not that I recall.

RICHARDSON: Did she ever indicate to you that she had raised some question about the fact that there was not a signature of Mr. Moriarty's on the document?

LEE: Not that I recall.

RICHARDSON: Or did she ever complain or raise the question that her signature had not appeared on the document?

LEE: No.

RICHARDSON: So apparently she processed the application on the 29th without bringing it to Mrs. Moriarty's attention that the documentation had not been completed. The paperwork had not been completed.

LEE: I don't, I mean you'll have to read the statements, all of Barbara's statement. I can't answer for that.

RICHARDSON: I couldn't find anything in there where she had raised any question or concern with anybody on the 29th of March. That there was something that was not complete.

LEE: Not that I'm aware of. I, the only thing I, with all of this documentation as you see I can't set here through all of it because I wasn't present through the Grand Jury or the trial.

RICHARDSON: I guess I'm just trying to figure out why it is that on the 29th if Barbara did the processing of it and presumably put it in the computer, if her signature wasn't on it and if Tim's wasn't on it, why didn't she raise that issue at that time instead of waiting until two months later and raising it.

LEE: Somewhere I'm sure that question was addressed. I can't off the top of my head tell you.

RICHARDSON: Wasn't any indication from anybody's testimony that Mrs. Moriarty was alerted to the fact on the 29th that there was some signatures missing in the packet?

LEE: Not that I can recall. Like I said there is a lot of paperwork here for me to go through.

RICHARDSON: Were there other documents in that packet that had to be signed by Tim?

LEE: No.

RICHARDSON: There is only one place that you sign when you file for office.

LEE: Well, yes, the Declaration of Candidacy. Remember the initial sheet, the filing sheet was completed and stamped on the 21st, which he filled out in his own handwriting. Then there is also a receipt that was filled out by Barbara Campbell and dated on the 21st.

RICHARDSON: So there is actually two documents that the candidate would have, one would be the worksheet.

LEE: Right.

RICHARDSON: Which he fills out himself.

LEE: Correct.

RICHARDSON: Did he sign that worksheet?

LEE: I don't believe there is a signature on there. I think it's print your name as you want it to appear on the document and

....

RICHARDSON: And then on the Declaration of Candidacy itself are there some things he has to fill out on that?

LEE: They use the candidacy sheet to create the Declaration of Candidacy. So the information that he put on the candidacy sheet is what they would use to generate the document in the computer.

RICHARDSON: So he gives them the worksheet all filled out. Then they input that data and then have the computer printer print out a Declaration of Candidacy, which he would then sign.

LEE: Correct.

RICHARDSON: Is that the way the process works?

LEE: Correct. And normally the way it would work is as soon as they did that or as they did that they would have already stamped the candidacy, the sheet that he fills out, hand printed out, and then the computer was set up as such as at the bottom they would then type in the same time and date as what was on worksheet so everything was the same.

RICHARDSON: But there is no way of telling from the, your documentation who it was that actually did that on the 29th?

LEE: No.

RICHARDSON: Thank you.
(End of tape #3)

WITT: Are there other questions? Seeing none, Mr. Lee, we thank you very much for your testimony here. We would

ask that you be available in case there is some need to recall you, but I will, or the committee will certainly let you know before that so we can make appropriate plans.

LEE: Okay.

WITT: Thank you very much. Does any member of the committee have anything else at this time before the Secretary of State and her counsel are allowed to present their testimony?

RICHARDSON: Mr. Chairman, just in the way of procedure I'm kind of curious as to how you would like to proceed. Is this all the evidence or testimony that we are going to receive tonight in support of an article of impeachment?

WITT: This is all the testimony we are going to see, receive this evening as, all that I intend to, all that I've called. Obviously there wasn't a lot of time to put together a lot of testimony today. That and the transcript of the Grand Jury proceeding.

RICHARDSON: Is it your intention to allow Mrs. Moriarty to put on whatever testimony she wants to and to proceed with some sort of formal action tonight?

WITT: My intent at this point, it is getting late, and obviously the transcript of the Grand Jury testimony was just presented to you a few minutes ago. My intent would be to allow Mrs. Moriarty to put on her testimony at this time and then we would recess until 8:00 a.m. tomorrow morning, come back in and then try and see if there is any action the committee chooses to take at that time. Whether or not we

will or not is going to be up to the committee but I would like to at least give us that opportunity to review the testimony. We didn't need to sleep tonight anyway.

RICHARDSON: Just as a comment procedurally, I don't have any objection whatsoever to them putting their testimony on, although, it seems normally the prosecution generally presents their testimony and then the defense theirs. And it seems to me like that there is a lot of additional testimony that we need on the prosecution side of this before we can really make an intelligent determination. I'm wondering about testimony from Mrs. Campbell from Mrs. Barrows, from Mr. Carroll. We've been presented a lot of information here. A lot of it is second hand and is speculation and, you know, transcripts where we haven't really had a chance to, not only have we not had a chance to read it but we apparently not have a chance to cross examine any of it or question further on any of it. Would it be your intention if we are going to reconvene in the morning to have any additional witnesses?

WITT: I would not intend to unless a member of the committee chooses to attempt to call some additional witnesses at that time. I think that my intent would be at that point would be to see what the feeling of the committee was - do we have enough at that time? Or if not we will choose to make a report back to the body that we need to take further testimony, and we will have to issue subpoenas, and request additional witnesses and documents, which will obviously take some time to do. So

RICHARDSON: So it wouldn't be

WITT: It, we are not precluded from doing that and if we do call additional witnesses or take additional testimony, we will certainly make it available so that Mrs. Moriarty will have an opportunity to respond to that at that time.

RICHARDSON: Thank you.

WITT: Any thing further from the committee? Mr. Brown do you wish to proceed at this time on the behalf of the Secretary of State?

ROGER BROWN: If I could and if I could have a minute to kind of get things organized here.

WITT: Certainly, we will

BROWN: I can, I mean I don't have to take a break, I can shuffle here and talk at the same time, I think.

WITT: Go right ahead and shuffle and talk.

BROWN: One of the things that Mr. Lee indicated that he didn't know, why Mrs. Campbell, I think in answer to your question, Mark, why she didn't come forward. I point out that Mrs. Campbell only came forward after she'd made a sexual harassment complaint or what she believed to be a sexual harassment complaint, against Jim Kolb. And then Mrs. Moriarty in investigating that had transferred her to archives in order to conduct an investigation and only at that time did she come forward with these allegations. What I'd like to do based on what you've heard so far is try to take you through some of the areas I

think that may be troubling you in terms of facts and the dates and the various documents. Quite frankly I don't think there is anybody that knows the facts of this case better than I do. And obviously some of that is going to be relating to testimony that I've heard and interviews that I have conducted as Richard Lee would conduct interviews for the prosecutor, obviously I interviewed the same people.

WITT: Roger, I guess I forgot at the beginning that I need to swear you in at this time and I would also like to point out at this time that we do have the electronic media in the other room so if you can stay as close over there to your microphone as possible. I know you like to jump around and move.

BROWN: I don't think you'll have any difficulty hearing me.

WITT: Yeah, they're in the next room though.

BROWN: I still don't think there will be any difficulty.

WITT: Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth so help you God?

BROWN: I do.

WITT: Now you can proceed. I apologize for missing that at the front end.

BROWN: First thing I'd like to give the committee is the motion for exculpatory evidence that we filed in this case for the very reason of evidence that was disclosed for the first time here tonight that I had never heard of

about Nadine Barrows, and it is Barrows, making a statement to the prosecuting attorney to the effect that a document had been wadded up and thrown away. We were under the understanding that she had not talked to the prosecutors. We were under the understanding that such a statement had not been made to them. Although we understood that she would likely testify to something along those lines. But upon advice of counsel she made it very clear that she would take the fifth amendment because she was afraid that she would be charged by the Prosecutor with destroying state documents. Because if in fact a filing was made on the 21st of March and that document was destroyed it could be potential destruction of that declaration. We asked the prosecutor to grant her immunity in order so that she could tell her, give her testimony to the jury. He refused to give her immunity. She indicated that she would take the fifth amendment. We did call her as a witness. And we took her up right to the point of the questions where she would assert the fifth amendment. We were instructed by the court not to ask those questions and that the jury could not hear her take the fifth amendment, that we had to stop our questions at that point. So in answer to the question did she testify, she very much testified. Previously in the transcript of the Grand Jury testimony, she did indicate that she had seen Tim Moriarty's declaration on the computer. The problem with Grand Jury testimony is the next question was never asked. And that is a problem with grand juries. Only the prosecutor is in there. Defense lawyers aren't in there. And what she said and what she

potentially would have said had she been given immunity or not had fifth amendment problems was not inconsistent with what she told the Grand Jury. The fact that the questions weren't asked by the prosecutor in the Grand Jury does not make it inconsistent. So I wanted to point out because I thought that was a concern of you all and I was going to dove tail into as I got to that document and to those events because I'd like to go in a chronological order because I think the best way to understand it is to go in a chronological order. But that is one of the due process problems we have in this case is if in fact the Prosecutor was given exculpatory evidence and it was not in fact disclosed to us when we asked for it, that is clearly a basis for a new trial. And quite frankly if Tim Moriarty was filed on the 21st and a document was destroyed I think that is something that a jury needs to hear. So, for the first time tonight I heard that indications had been made by Nadine Barrows to the prosecutor that it had been wadded up. We had heard that there was potential that she saw it on the machine because she said that in the Grand Jury and that it was deleted from the machine and it was deleted at the direction of Barbara Campbell. That evidence was never presented to the jury because of the fifth amendment problem. Anytime you want to interrupt me I'd be more than happy to do it but let me start with some of these documents that we presented at the trial. Please understand that on March 21st no one disputed that Tim Moriarty was in the office. Numerous witnesses testified that he was there and this is the receipt that was received when he paid his

filing fee. And you'll note it is dated the 21st and it was signed by Barbara Campbell. The first evidence of contrariness came in that Mrs. Campbell indicated this was after 5:00, that it was after hours. This was the first indication of some impropriety. Every single witness other than Barbara Campbell verified that it was during regular working hours. Carolyn Smith, who's the legislative liaison recalled that her daughter was in town, that Tim was walking down the hall, that she'd come back in from being in the Senate and it was definitely during regular business hours. Juli Rodenburg recalled that it was early afternoon that she thought because she went home at 5:00 and it was well before that.

WIBLE: Excuse me a second, I don't mean to interrupt but, I don't have copies of these.

BROWN: I'm sorry. Okay, if you don't I did bring copies, I believe, of all of these things. I hope I did. But in any event the first circumstance was one where in - you all have these - okay. That was the first indication from Mrs. Campbell of improprieties. She claimed that Tim came in after hours. There was no corroborating evidence whatsoever of Mrs. Campbell's testimony to that effect. And in fact three or four witnesses beside the Secretary and besides Tim who corroborated that he was in fact there during regular business hours. Now the problem came about, is that this particular document, which we marked at trial as exhibit #16, was the document that Tim testified that he in fact did have and did execute on the 21st. Now there is a form which you all would have filled out when you go to the Secretary of State's

office which is the information file which we marked as exhibit #15, which when that document is filled out the information is then inputted into a computer. That information is inputted into a computer to generate the declaration form. Now what we believe is that the evidence is clear that he paid his filing fee. The evidence is clear that Barbara Campbell took his filing fee. It is clear that he was there and filled out his form. And the dispute is whether or not the document exhibit #16 was in fact created on the 21st. Tim testified that after he withdrew from the race he went home and cleaned out his briefcase, very frustrated, and found that particular document. Up until that time we did not know that document existed, he wasn't sure that he had done it. He thought he'd gone in, he thought he was a candidate, he thought everything had been done properly. And immediately upon his discovery of that document he called me. And I told him to go to Richard Lee. And I told him to go to the Attorney General's office, to take it directly to them. Now that's one of the things I think that is really important in this case is that every venture the Secretary, her employees, and her family cooperated with all the authorities. They made themselves available. They made numerous times where they gave statements where Richard Lee was present. They gave sworn statements. They went to Grand Jury. They went to trial. And they always made themselves available. But one of the interesting things about this document is the manner in which Tim fills out exhibit #15, as "Timothy J. Tim Moriarty," where it says please print your name on the ballot as you would

want, exactly as you want it on the ballot. That is how he signed that document. The document that ultimately got signed later, when the opinion had been given that it was a correctable clerical error, he did not sign it that way. Now I was pointing that out to you as I think if person goes in and they're interested in being a candidate and they fill this out and they take very great care to make sure that you say "Timothy Tim Moriarty" and then you turn around and sign it exactly the same way. They are probably pretty contemporaneous. But when you're called to drive to Jeff City and come in and sign a document and you haven't seen this sheet that is simply put in front of you, you may just simply sign it the way that you maybe normally do. The problem that existed with this document, with #16, is at the bottom. Obviously it's not attested to by Barbara Campbell. But also "record not found, XM," nothing indicated the date. Well, with regard to that, "XM" is a glitch in the computer program. If the time of day is entered manually when you input the information from the computer sheet and it's entered and you say that the time of day is between 12:00 and 1:00 am or pm it will kick out XM. If you don't enter a date this is what will enter "record not found XM." Well those three things concern me as a lawyer because obviously the implication is going to be somebody created this document after the fact in order to create a defense. Well I went through all of the files from all of filings and I found numerous "XM's" I found numerous times of records not found came up and I also found times when in fact the signature wasn't signed. In fact Connie

and Steve, I don't believe yours were by Barbara Campbell. One of the things we did at trial is we pulled those out because Rich had them there and we found that several times the person who took the receipt was Barbara Campbell, which she was also the person that didn't do the attestation. Well, the importance with that is that Barbara came up with another, what we felt to be story, in that she said that she was trained that way. That she was trained by Joe Carroll and Gene Wiseman, that it really wasn't important to put her name down. Well, they both denied that at trial and said that's not correct. And again what we felt was important to show is that she consistently and on more than one occasion failed to put that signature down there and there were other "record not found," and there were other "XM's." So I felt that was a legitimate document and that in fact he did file on the 21st. Now the importance legally view is this jury instruction. The jury instruction that did not, was not given to the jury. And we believe this a correct statement of the law. Unless you find and believe to be evident beyond a reasonable doubt that Tim Moriarty did not sign his Declaration of Candidacy on March 21st, 1994, you must find the defendant not guilty under all counts. If he presented himself on the 21st, paid his filing fee, gave the information of his candidacy, candidacy was generated and he signed it, he is a candidate. Everything that happens there after is meaningless. If the document is created on the 29th then ostensibly is altered later on by the addition of his signature or the addition of Barbara Campbell's signature it's a

meaningless act because that document on the 21st is the filing, the subsequent document is a meaningless document. We didn't feel this is a proper record. So the charge against her for having Barbara go and do the attestation which is shown on this document 17, we do not believe should have been submitted to the jury because this instruction had been given. Now one of the problems in this case both from the criminal stand point and the viability of Tim's candidacy stand point is a bunch of age-old case law in Missouri about substantial compliance. And I had known, because I challenged the constitutionality four years ago, about the 20 age, 24 and age 30 requirements. From doing that our argument there is that a person can be substantially in compliance when they file and still be a candidate and not be kicked out because of some element not existing. For example, there are people who didn't pay their filing fees, there are people who did not sign, there are people in the history of Missouri who had other people sign for them, there are people who were seated who were not of age. So I knew that there was a substantial amount of law in Missouri about substantial compliance and I felt that the best defense at that point in time was in fact, regardless of whether he signed, if he showed up, presented himself, declared himself as a candidate and paid his filing fee that there is probably a pretty good chance that he was a candidate regardless of what happened later.

WITT: Roger, can I ask you a question here, just a second?

BROWN: Sure.

WITT: That deals with whether or not he was an official candidate. Now if there was later official documents that changed, that were new documents added, that changed the nature of the document, wouldn't that still constitute a change in an official document even though it would not effect his candidacy. But wouldn't it still be a manipulation of an official document which would give rise to a crime?

BROWN: I don't think so in the sense of the Secretary of State for this reason: Number 1, is that in the situation here was the testimony as we understood it was going to come from Nadine Barrows that this document, she did testify at trial that she did see a declaration in the file and that she did see his declaration on the computer. At the point of asking her if it was ever deleted, that was a fifth amendment situation and if it was the physical document was pulled out of the folder, that was a fifth amendment issue which we were not allowed to ask the question. It is my opinion from what I understand is that if she had been given immunity she would have indicated that she did see it on the computer, that she was directed by Barbara Campbell to delete it and she followed her directions, including deleting it from the computer and pulling out this or that sheet over there and throwing it away. Once that's pulled out of the file, once that's out of the file and out of the computer, now there is no record of Tim Moriarty being filed as a candidate on any date. That brings us to your question of what happened on the 29th and in the situation, in this situation, it was our testimony and evidence in trial that Tim called

and wanted to make sure everything was fine on the 29th. His mom asked Judi, Judi asked Barbara Campbell if everything was in order. And she indicated that it was. Now, here is where a problem arose at trial, where credibility of Barbara Campbell. Barbara Campbell says that she, that she was directed by Judi to file Tim without Tim being there and without Tim signing the document. That she was directed to go ahead and file. She also says that she directed Nadine to create this document, to run this document out and enter Tim in the computer and entering him filed.

WITT: And what was the date of that?

BROWN: That would be the 29th. And that would generate this 1:19 p.m., March 29th, date that is shown at, 29th day of March, 1994, 1:19. Nadine specifically states that she was never told by Barbara to do anything. She specifically testified at trial that she was not directed and did not create this document. Mrs. Moriarty's testimony was that had she known that Tim's name was not on there and that it was not executed there was plenty of time in the day to notify Tim. In fact the evidence was there were several phone calls between Judi and Tim that day. Records of Tim's call coming into Judi and plenty of time for him to come to Jeff City. And the evidence was also clear in trial that Tim had come to Jeff City on a regular basis to see his mom, that is was not unusual for him to come to Jeff City.

WITT: And what was the date that Tim actually signed this document according to you, or according to the evidence?

BROWN: We don't know, but I, should be somewhere around the 10th of May is when it's discovery was. Because the evidence at trial was that Mrs. Moriarty had asked for a copy of this declaration sheet to get all the information in order to fill out Tim's exemptions of that for the Ethics Commission. She needed this sheet. When it was presented to her, a faxed copy was sent over, Juli Rodenburg brought it in. And Juli described at trial her reaction, how surprised, how could this have happened, how could it be, and she immediately wanted to know if this was a legal file and if contact was made with Joe Carroll and Gene Wiseman. The testimony also was at trial that when Juli Rodenburg took this to Mrs. Moriarty and walked back out the hallway she encountered Barbara and told Barbara and Barbara's reaction was "How did I screw up, how could I have screwed that up." The exact same words as testified to by Gene Wiseman getting a call from Barbara Campbell saying "I understand I screwed up and I need to come sign a document." Now our contention is about three fold. Number one, this is not a state official document. The official filing was the one on the 21st. No one had authority to destroy it. That was a properly filed candidacy. And that's the document that makes a difference. The second thing is is that in this particular situation there was nothing done by the Secretary indicating that she ordered Barbara Campbell, other than Barbara Campbell's testimony itself, to go over and execute it; however, the Secretary relied upon the advice of counsel, Randy Sparks, and her elections people, because based on their interview with

Barbara and how this occurred, they determined that this was a clerical error. That everything had been met for him to be a candidate. And that the only thing that needed to be done was for it to be actually executed and the signatures secured because he'd done everything else proper to be a candidate. Now, retrospect, if I'm the lawyer in this situation, knowing what happens here we probably, would put a date there, and say May 10th or May 12th or May 9th. Clearly in that particular situation if you do that then, you are not having the problem as far as when the dates came in. It may be at that point you ask the Attorney General is this a properly filed candidate? Is this error that's been made in the office one that is correctable? But our big function in presenting this document to the jury is, is that when it was discovered and presented to the Secretary she was shocked. She asked, "Is it a legal filing?" And she relied upon the people in her Elections Division who daily give advice on elections to clerks in the various counties as well as her counsel, what do you do with it? And their advice was in fact to get the signature. One of the things I think you said on the floor today Gary was about count of one of the charge. And I believe, I believe I blew that one out, but on count one, that is the count that talks about an election offense. That talks about it being an improper filing and an election offense. The jury did not find her guilty of that. Did not find her guilty of the alteration by Tim's signature but merely the certification. That is the same type of certification, the same type of statute, not a specific statute to election candidacy but the same statute that applies to the

affixing of a notary public. A notary comes in and back dates. A notary comes in and doesn't actually see the signature but signs and says that he or she did, or signs it on a different date than it was actually signed. That's the statute under which this jury came back is the certification process. So, I think it's really important to understand that as the election laws apply in this criminal charge the one of the election offense was truly count one. And the jury did not come back with a not guilty on that one. And so I think it's important to understand the situation in regard to this particular document. But I think . . .

WITT: Roger.

BROWN: you may think you had a problem early about the dates on this document. . . .

WITT: Roger. I have been informed by the staff we are trying to preserve this testimony so that if any members that are not present want to view it, I realize that you have to move around some but if you could try and stay back close to the mike, we want to be able to make sure that if somebody wants to review this later they're able to

BROWN: No problem.

WITT: hear your arguments.

BROWN: No problem. But I think one of the problems that you had earlier was the timing. Somewhere around the 10th of May is when the Secretary is made aware that there are no signatures on that particular document. That particular document is not in dispute that it was created on the 29th by Barbara Campbell. Barbara

says she that she directed Nadine to do it. Nadine says, "No, I was not there, that was not created by me." But as to the date of its creation being generated by the computer, that document was created on the 29th. Its execution of signatures was sometime in late April or May. And I say May 10th because that looks to be about the time that Tim's exemption was filed, which you would think would be contemporaneous with getting the documents to fill out the exemption. So in presenting this to you all, my belief is that there was a viable candidacy filed on the 21st of March. And if there was a viable candidacy on the 21st of March, whatever happened thereafter is irrelevant and is not a violation of law because it's not an altering of a public record because that's not the public record. And if you consider it a public record, it was done after consultation with her people in her office responsible for elections and upon advice of counsel. And taking that into consideration with the plethora of substantial compliance law in this state, many Attorney General opinions still very viable, there was clearly a substantial compliance with the laws for a viable candidacy as of March 21st and anything done with that document should be irrelevant. (End of tape #4)

WITT: Representative Wible.

WIBLE: Thank you. Is your contention then as to the computer record that was generated on the 29th, is your contention that Barbara Campbell generated that record to cover the fact that the documents had either at her direction or by some other means had been destroyed?

BROWN: I think that's a fair conclusion. I think that it would appear that either she made a mistake on the 21st or in checking the file had realized that she had destroyed or had removed from the file Tim's filing and in order to make her boss happy, not get into trouble or whatever, she simply generates this, puts it in the computer and knowing that its going to kick out as a filed candidate and does nothing from that point on further to say, "Hey, Judi, his signature's not here, my signature's not on here." Because she certainly had the opportunity to tell the Secretary that day that this is not signed. Her testimony at trial was that she was directed to file it regardless of the circumstances, that she was called- said get it filed, Tim's not coming in. But we believe in knowing, from the testimony of Nadine Barrows, that it did appear on the computer and that Tim did have that copy. For all intents and purposes and in compliance with the law he was filed. And that's what Tim said throughout this whole trial that he considered himself filed. That he talked to his mom on an almost, not only a daily basis but several times, forever, very close mother - son relationship, and that he wanted to be sure that there wasn't anything else he had to do. The first phone call I think came in as early as 8:59. And he had more than adequate time to come to Jeff City and sign. And in that particular situation Judi testified that she had contacted Barbara and Barbara indicated that everything was fine and dandy. And instead of looking in the file and seeing there isn't anything in there, she may very well have made an error and made a mistake and did not want to call

it to her attention. But the bottom line still is, is that there had been a viable candidacy on the 21st of March. And in looking at the case law, if he met all the requirements, that document, even though destroyed, is the document that makes him a candidate. And when she generates a document on the 29th the fact that the signatures are retrieved earlier, to me, is not the official document. And that's why I don't think there is a violation of election laws, violation of any of the laws, that she has to perform as Secretary of State. But add to that the fact that when it's brought to her attentions, she inquires of her election people and her counsel as to whether this is a legal filing and what should be done to correct the clerical error and is given that opinion and relies upon it. I think that clearly shows no intent and no viable situation where she intended to violate the law or portray any circumstances of favoritism to her son, but simply asked her people what do you do in this particular situation?

WIBLE: On the 21st it's my understanding from what you have said here that when the computer entry is made that creates this document. So on, your contention is that on the 21st there was this document was created which was fully executed and then it was deleted from the computer.

BROWN: Correct.

WIBLE: Is there no way to go back into a computer record and find out, find something that has been erased?

BROWN: There's two things that we did in that situation. A

guy name Hal Hebert who wrote the program and we put him on at the testimony. And what he explained is that the program that was used is that when a record is deleted from the computer, it will leave an open space. Then when another record is created later the particular program randomly selects open spaces and goes back in those places. If it filled the March 21st deletion, he would never be able to tell if there was a March 21st deletion. The Prosecutor's expert confirmed the same thing. He said he couldn't find a March 21st deletion, but he couldn't rule out the March 21st deletion, that there could have been one and simply based upon the program, and a fairly simplistic program, you could not go back and confirm whether or not there had been an entry and/or a deletion on the 21st. That was one of the first things we all did.

WIBLE: Was there testimony to that effect in the trial?

BROWN: Our expert, our computer guy, Hal Hebert, testified to that at trial. The computer expert from the Prosecutor's office was not called in that particular situation. Do you all have copies of the verdict on count three?

WITT: I think we do, yes.

BROWN: Where it indicates no imprisonment. I won't bore you with that one either. I do want to show you another chart that we made at trial. Then I think I can, and I think both Rich Callahan and Albert Reiderer who argued for the defense indicated that this was a situation of a swearing match. If you believe Barbara Campbell then you believe Judi Moriarty

ordered her to go do the attestation. If you don't believe her then you don't find that she was ordered. Here are the things that we listed of the thirteen inconsistencies in her testimony. I found a fourteenth one tonight. First one was that as far as signing the declaration, in this particular situation, the original position of Barbara Campbell, her original allegation that started this whole charade, was that Judi Moriarty signed Tim's name on that. This is a letter, sent by David Edwards, her lawyer, I give you a copy of that one, on June 15th and in this letter makes allegations of improprieties by the Secretary of State. This was a copy made and sent to Rich Callahan and Jay Nixon. And in this letter, clearly stating that he is writing on behalf of Dr. Charles and Barbara Campbell, in the first paragraph, goes on in the second paragraph to state, "I understand from talking with Dr. and Mrs. Campbell, with regard to certain allegations, I am referring to filings for the 56th district by Tim Moriarty. I understand further that these filings were made not by Tim Moriarty but signed in his name and filed by his mother, Secretary of State, Judi Moriarty." The first allegation by Mrs. Campbell in this portrayal was that Judi signed Tim's name. Well that portrayal went away because the Prosecutor got a handwriting expert and determined - no - that was Tim's filing. But if you'll note in reading this letter, there isn't anything else in this letter, there isn't anything else in this letter that portrays Barbara Campbell's testimony the rest of the trial. Doesn't portray that there was a 29th filing that was later executed by Tim, doesn't talk anything about

an improper attestation or signature by Tim. The things that ultimately became the three charges against Judi Moriarty by the Grand Jury are not even portrayed in this initial letter. Now I would ask you, first of all, wouldn't you think that if she was going in with the truth and having her lawyer send the truth to a Prosecutor and Attorney General after she'd resigned and after she'd accused the top deputy of sexual harassment, don't you think she would get at least one of these facts right? Well that's the first inconsistency that we found that's portrayed on the chart of thirteen inconsistencies is that she tried to portray initially that Judi Moriarty signed Tim's name. Second thing is what I explained to you earlier. That Tim came in after hours, after 5:00. Five different witnesses in the office contradicted her; no one corroborated it. She indicated that in no way was Tim ever in the computer on 3-21-94, but we had Nadine Barrows testimony, both at the Grand Jury and at trial, that Tim's name was in the computer and in fact we had the document March 21st, or what we believe to be March 21st. The fourth thing, is that she didn't, she testified that there was no declaration. And we showed that we believe not only was this document the proper declaration on the 21st but was confirmed by Nadine Barrows' testimony that she saw it in the computer and as you've heard Richard Lee say, came forward before trial to indicate that it had been destroyed, had been wadded up. The fifth thing, was on 3-29-95 Tim to file, but not here. The key on the 29th of her testimony was that she'd indicated she was told to make the filings. And that she should find time when

no one was around. But she passed the buck and said that she didn't really do it. Nadine did it. Nadine entered the 3-29 document. Nadine is the one who generated it. She simply didn't take and credit it for what she had testified to or that she didn't take credit for the fact she had done it herself, passed the buck to someone else. The other thing, the seventh thing, that we've pointed out was that she had portrayed to us that she was trained not to sign. That Gene Wiseman and Joe Carroll trained her, that it was proper to simply let it go by without the attestation. No one testified to that. The other two ladies, Nadine Barrows and Juli Rodenburg who did the filings with her, clearly testified that they were trained and in fact did sign the attestation when people would come in, as did Gene Wiseman. The eighth one, is the fact that she said that Nadine generate the certificate. I believe the ninth inconsistency is Judi ordered her to sign. Judi specifically directed her, asked her was everything okay and did not direct her at a later time to go sign. But by the testimony of Gene Wiseman she called and she indicated simply that she must of screwed up and she indicated to Juli Rodenburg, she must of screwed up or goofed up. "I messed up." The eleventh thing I've listed are the letters, the letters of sexual harassment letter she sends to Mr. Kolb followed up, sent by her lawyer, followed up by a hand written note to Judi were she says I'll never hurt you. The next day she resigns and threatens her in another letter, basically an extortion letter, that if she doesn't say good things about her she'll let the world know about Tim's filing. We felt those things illustrated a person

maybe initially negligent, maybe initially made a mistake and created the circumstances. But because she didn't get her way, she didn't get her way as far as Jim Kolb being discharged or her husband wanting to have him discharged. But she simply felt it necessary to do harm or whatever or to cover up her tracks for her own incompetence. What the bottom line is that in each and every one of these terms of her testimony there was not only documentary evidence to contradict her but there was also evidence of other witnesses who testified that what she described did not in fact occur. Now there is one thing that I noticed in Richard Lee's testimony that would go on my chart as number 15, or number 14. See if I can find it real quick. She indicated apparently to him in his interview that the reason why there was to be a delay on the 21st, as I remembered for Richard's testimony here tonight, is a concern about Tim not running due to problems with the Department of Labor, his employer. She never said that at trial and she was asked two or three different times at trial, "Do you know why Tim wanted to put this on hold?" and she said she did not know, that she was simply instructed by the Secretary to put it on hold and that she didn't know the reason. That would be number 14 inconsistency. Tonight we hear a different story about Barbara Campbell, apparently telling Richard Lee something different. The point is not to destroy Barbara Campbell but unfortunately as a defense lawyer where there is only one witness who carries the ball for the prosecution you have to develop the credibility or the lack of it of that witness. One of the unfortunate things in this

situation was we had discovered that in April of this year she had filed a law suit, in Columbia, claiming a closed head injury, claiming that she'd been involved in an automobile accident, that she had suffered memory loss, numerous other closed head injury problems. And we tried to bring her doctors in to describe what kind of manifestations closed head injuries would have, whether it has to do with memory, delusion, or whatever. Well, when Barbara was confronted with the law suit, at trial, she denied it. She said she had no problems, she was totally recovered. But then when she was called back to the stand with a certified copy, filed only, literally, weeks before these events take place or in fact right in the middle of them, after filing is over and before May of 1994. She now admits well, "Yeah I filed a law suit" and "I asked money damages" and that "I was in an automobile accident." And she was called back, was presented and finally fessed up that yeah she filed it but she really didn't have any injuries left. But when asked to waive the doctor - client privilege, for her doctors to come in and say exactly what her injuries were and how they would manifest itself, she refused to waive that privilege. And we were unable to present her physicians. So I think we presented a substantial amount of evidence, there and here, to show that the credibility of the state's one witness is suspect. But I think if you take everything in the light best to the state one of the problems is that the instructions in this case, the instructions on each and every count if not impossible are near impossible to instruct the law. And here's probably the strongest legal argument that

ultimately will have to be determined, probably by the Supreme Court and that is this: If our law of both the state of Missouri and the United States is so strong in favor of both suffrage and running for office that we do not want to limit or curtail except in extreme circumstances, that we believe in and enforce the idea of substantial compliance, then how can we write a criminal statute such as the ones charged in this case, where on one hand we say -- yes, we favor people running for office and if they do most of the perfunctory things that they've got to do, like show up and pay a filing fee and we want to err on the side of the candidate. And we do the things to correct clerical errors to make sure they're candidates -- but on the other hand we take the election official and take them to task and charge them criminally and hold them subject to going to jail, fine, and impeachment, then aren't we in effect creating a scheme of statutes which in effect creates a crushing or a limiting of people's desire and right to run for office. Because now if there is even the remotest problem and you can't rely upon your counsel and you can't rely upon your election people to say this is a clerical error, we've got to correct it, then are we going to eliminate this candidate from office and any other candidate that we found that was subject to a clerical error. And in researching this it was my intent to call the Chief Deputy in Jim Kirkpatrick's administration, Mr. Dowd, and found out these types of problems did occur over the years. Clerical problems did occur and clerical problems were ruled upon in favor of the candidate to maintain the candidacy and corrections would be made. Unfortunately that

situation Judge McHenry felt that that was irrelevant testimony and we did not present him. My point in presenting that to you all is that if you're going to have a situation where we err on the side of candidacy and you also are going to have in-house counsel and staff advising the Secretary of State on elections, then in this particular given situation, if you give the most favorable light to the prosecution and the most favorable light to Barbara Campbell is that an impeachable offense? If you say, yeah, they knew it. They knew there was a document and they corrected it based on the attorney's direction and based upon elections directions and judgment. Is that an offense of such a nature to warrant impeachment? But if you go a step further and you analyze the evidence and say but wait a minute, as this jury instruction that I showed you earlier that I thought we should have been able to give, is that he was a filed candidate on the 21st, everything subsequent, to me, is irrelevant and immaterial. And now, Nadine Barrows. Nadine went to Jim Gallaher because she was concerned about charges against her. Nadine had come in. I had visited with her about the same time Richard Lee had visited with her. And about four weeks out Rich Callahan and I took depositions of witnesses in the case. And we both came to the conclusion that we felt Nadine knew something more than she was telling us. Lawyer gut instinct. I visited with Nadine and I said, "Look, if you're not telling the whole truth and it's bad for Judi let me know now. Because if there is some impropriety by the Secretary of State, I want to know it. I want to get this thing over with. I

don't want to be surprised at trial. But the one thing you've got to know is you have the right to your own counsel. You need to go see somebody and if you've got a lawyer go see him and be advised of it." And she did that. And approximately two weeks before trial we get an indication that there is something more of what she recollects from the events of the 21st. Now what that means in terms of credibility, sure if somebody says I don't remember anything about the 21st and later tells the Grand Jury - yeah, I remember it being on the computer and then, yeah, I was directed - that is a question of fact, a question of believability of that witness. But I honestly think that if you hear Nadine Barrows you'll consider her a very credible person. She is a kind person. She was there in the Blunt administration. She was kept over by Judi because she knew how the front office worked and she knew people. And quite frankly it's a person I believe was very truthful about what the circumstances were of the 21st. Barbara Campbell's motivation, whether she made a mistake, whether she and Charles are so frustrated because they couldn't be the Deputy and the Chief Deputy of the Secretary of State's office and be the decision makers, I don't know. To me it doesn't make any difference what their motivation was. But the bottom line is what took place here is not an impeachable offense. And also the bottom line is at every point in this case Judi provided documents, provided people, opened up her offices to the Attorney General's office, to the Prosecutor's office time and time again and gave them everything that she could. Everything that she knew. And gave her people

without having lawyers there, without having people there. I was there when Richard, Richard Lee interviewed Judi, both times. I have a little bit different recollection as far as the portrayal of the concern about Tim running for office. But it was a concern she had about the effect upon her political career. She had a very strong concern about it being a very strong Republican area that he couldn't run on. And simply was a situation where I found not to be in any way inconsistent. It did bring about a different inconsistency from Barbara Campbell, because Barbara Campbell portrayed the situation that Judi was pushing Tim instead of trying to talk Tim out of it. But again, Tim has always been very strong throughout this whole presentation, that he wanted to be a candidate. And did a lot to be candidate, got endorsements, talked to lots of different clubs, went to lots of different rallies, put together lots of different campaign literature to in fact be a viable candidate. To me he is the first and foremost victim because he lost a chance to be a candidate. The second victim is the Secretary herself because she will be damn-near bankrupt when this thing is over with. It's been costly to her money-wise, it's costly to her health, and it's just not fair. And maybe looking at this situation if I'd of gone in and said, "No Attorney General in this case, no Prosecutor in this case, your not talking to anybody, your not getting any documents," but that wasn't Judi's style. She said lay-it all out I haven't done anything wrong. And I don't think she's done anything wrong. I think she's been very straight forward.

WITT: Representative Wible.

WIBLE: Mr. Brown if this was a clerical error and the signing of the subsequent document and the dating of it was to correct the clerical error I'm curious as to why it was dated the 29th of March instead of the date of the original document.

BROWN: Sure, because that's when the document was generated. And I think that's something that I didn't clear up with you.

WIBLE: Okay.

BROWN: This document is clearly created on the 29th and it's put in the file, put in the computer. He's a filed candidate for the purposes of the computer printout, where he is on the ballot. It goes in a file. A copy is sent over to her when she asked for it. All they do is they take the original and execute it. It's already generated that date.

WIBLE: And it's not possible to go back on the computer and back date.

BROWN: Sure. I mean they can generate a whole new one and generate it and say May 10th except if you enter May 10th it will kick out that not found because it's not in that time frame of the election, last Tuesday of February, February 22nd to March 29th. They took the actual document that's in the file, generated on the 29th with the 29th and simply executed it. They could have gone in and drafted another document, theoretically, on that date but if they had and they entered anything but a date that would be a proper filing date it would simply say - not found. And so what they opted to do on the advice of counsel and the election people is to take this

document and go ahead and get the signatures on this document.

WIBLE: I have another question about that. In terms of advice of counsel to create another document with new signatures to replace the one that was missing. I'm trying to liken that to some other legal document that would be missing. Take a will for example. Would it be likely that someone would be advised to take a copy of the will if they couldn't find the original signature, generate signatures that, well of course that's a bad example because the person would be deceased. Something other than a will, a legal document that is a corporate document that has signatures missing or the documents missing but you know that it was signed on a certain date. You can't find it. So would, is it likely that counsel would advise someone to go and recreate the signature and replace it?

BROWN: That's not what happened here. That's why I'm afraid I'm maybe, may have misled you, is that there was no advice of counsel to create a new document. They took this document that was in the file, that they found, when Judi calls over and asks for a copy of it. When they find it and send it to her there is no signatures. They don't create a new document on May 10th or on April whatever.

WIBLE: Well, in effect they're creating a new document with new signatures.

BROWN: They are taking the document that is in the file and putting the signatures on it. And that's the charge that's in this case is that you're altering a record by bringing in the

signatures that are after the actual date that it is fact dated.

When Randy Sparks is advised, there is no new document created at that time but rather his instruction is to go ahead and execute this document.

WIBLE: But wouldn't that be similar to having a document on a computer program where the document itself is missing but the, an exact copy of it is in a computer program. You can print it out and get the signatures then at a later time and back date it. Would that . . .

BROWN: And I think you have a legal question. The situation would be, let's assume that he never came in at all, never paid his filing fee, never filled out his Declaration of Candidacy, never did anything and then on the 29th they generate something and send it over, it's still unexecuted. In that situation I think we've got the portrayal that you're coming up with in that situation where now you clearly created a document.

WIBLE: I'm asking about a situation where there was an original signed document but it can not be found.

BROWN: Then it becomes a question

WIBLE: Is it legally correct to sign an exact copy of that document at that time and back date it? (End of tape #5)

BROWN: I guess my answer to you depends on the circumstances. With the case law out there that Randy says he relied upon on substantial compliance, he felt that executing this document that was in the file was in fact proper.

Now if what you're saying is that somebody comes in and executes a contract and the contract can no longer be found and then you go back and redo the contract and people come in and sign it and back date it. You may or may not have an attachable, may or may not have an attackable contract because if the party against whom that contract is construed effectively ratifies it you've got an enforceable contract. The fact that is back dated and the terms and conditions are in effect agreed at some point and time the fact that it's back dated probably is not going to negate that contract.

WIBLE: Were there, where all of the parties involved are agreeing to do that, but that's a little bit different because you've - all right I, thank you.

BROWN: I think what you're looking at in the situation if you're the lawyer you need to say is the content of this correct? Had he by the 29th presented himself, paid his filing fee, filled out his declaration form and otherwise complied with that statutes. Isn't it, all it's doing is the lacking of the signature? And if that lacking of the signatures is because of a clerical error, as they opine then do you hold that against the candidate? Say, "oops we screwed up so you're out," or do you correct it? In the perfect world, yeah, I'd loved them to have put in parenthesis here the date that it was in fact signed but they didn't. But I don't think that creates a circumstance of impropriety or an impeachable offense. The question earlier about the effect on the ballot. There were only two candidates, Tim's opponent filed the very first day of filing

and there was nobody on the 21st to the 29th, it would not have affected the ballot, the place on the ballot.

WITT: Representative Gaw.

GAW: Roger, your exhibit 15 is that, was that your exhibit at trial?

BROWN: Yes, it was.

GAW: And is that a copy of Tim, of the document Tim found?

BROWN: It is. The one that Tim found he gave directly to Richard Lee.

GAW: 15?

WITT: 15 is this one here.

BROWN: This one also would have, this one?

GAW: Yes.

BROWN: This one I believe we probably would have, I don't know if we copied this from the Prosecutor's file or if there was a copy kept over in the Secretary of State's office after the file...

GAW: Is that not the document that you said earlier was the one he found in his briefcase?

BROWN: No, no, not this one. 16, this is the one he finds in his briefcase. There is no question that this one the original was maintained in the Secretary of State's office. Where you come in and fill out all the information and you say how you want your name on it. There is no question that this one was found in the Secretary of State's office and there was no dispute by Barbara Campbell that he filled it out on the 21st even though it's dated

the 29th. She says she dated it the 29th because that's when she entered him on the computer. But she didn't dispute that he definitely was there on the 21st, definitely filled this one out on the 21st. But my point of the relevance in looking at this one versus exhibit 16 is that when Tim signs 16 he signs it exactly as he fills this one out, whereas when he's called in to come in to execute this one later on, when he shows up in the Election Division of the information center, he just simply signs his name.

GAW: When was that, that's 16, when does he say he signed that?

BROWN: The same day he fills both 15 and 16 out. He fills out the information form 15, gets this one generated by the computer and he signs it the same day, same day he goes in to file.

GAW: And that one is the one that says "record not found" at the bottom?

BROWN: Right. And we found numerous ones in the file, other candidacies where each one of those defects, with this one existed, no attestation, "record not found," whatever reason, maybe they just didn't enter it, maybe they entered at a time when they thought for whatever reason they didn't put a date in or made a clerical error.

GAW: Did I understand you earlier to say that is also generated if it would have been generated in May?

BROWN: If it's generated, I believe that Hal Hebert will say that on the computer if it's generated outside the time

frame of the filing that you would either get a blank here or "record not found." So in other words if you have a document that you come in and you put the wrong date on it you would have "record not found." If you put "March 32nd," put "February 30th," things that don't actual exist.

GAW: Or a date outside of the filing.

BROWN: And I think he said that if you put a date outside the filing.

GAW: Now if it's outside, if it were outside of the filing, this particular copy is a copy of what you say he found in his briefcase.

BROWN: Right, and he took the copy to Richard Lee the very next morning.

GAW: All right, and was there ever a similar copy of that document found in any of the Secretary of State's records?

BROWN: No. But that is where Nadine Barrow's testimony comes in because she indicates that she did see a Declaration of Candidacy on the date that she was told Tim had been in for Tim and that she was directed, we believe she would testify, that she was directed by Barbara Campbell, for whatever reason, to delete it from the computer and as a result of that form the actual declaration, which we believe would be the original of this one, was pulled out and thrown away. And so, the question is why did Barbara Campbell give her that direction. And the problem that we have is that we are in a situation where she's going to testify but takes the fifth amendment because of the fear of destruction of a public

record.

GAW: And who is her attorney?

BROWN: Jim Gallaher, Carson and Coil.

GAW: Has he represented her all the way through?

BROWN: Yes, he has and Mike Riley. I mean ever since she went to the prosecutor. And I mean it's like two or three weeks before or . . .

GAW: You've never represented her though?

BROWN: No. I've represented only Judi in this situation. And when anybody ever had a question as far as their potential problems or suggestions I was, I always told them you know you've got to get independent counsel.

GAW: No further questions, sir.

WITT: Is there any way that we can prove the exact time that this document was created?

BROWN: No.

WITT: Okay.

BROWN: From my understanding of both of the computer people is that there is no way that you can tell when the document was in fact created.

WITT: Any other question of the committee members?

RICHARDSON: Just a couple, Roger, is there any particular reason why on 16 at the top of the document it's clearly headed Declaration of Candidate for Nomination and on 17, which appears to be an identical type of

document that there is no heading on it? Is there any significance to that?

BROWN: Not unless we cut it off. Is it cut off? Yeah, when I put, I guess when we put it in the machine we must have cut part of it off because this is a blow up of the original which has was the same thing.

RICHARDSON: Secondly, at the trial itself did Joe Carroll testify?

BROWN: Yes, he did.

RICHARDSON: And . . .

BROWN: Called by the defendant not called by the state.

RICHARDSON: And did he testify that Judi had in fact asked him to opine on whether it would be clerical in nature or substance in nature for those signatures to be added?

BROWN: I believe his testimony was that he got a call from Judi pointing out the problem to him and asking is this a legal filing and at that he said I'll do my checking and I believe the testimony was is that after reviewing it with Randy Sparks, the general counsel, and Gene Wiseman that they felt that it in fact was a clerical error and that it could be corrected.

RICHARDSON: Is Joe an attorney?

BROWN: No. Neither Joe Carroll nor Gene Wiseman are but Randy Sparks is. He is the Chief Counsel.

RICHARDSON: Did Wiseman testify at the trial?

BROWN: Wiseman testified in, for the defense in this case.

RICHARDSON: Did he corroborate that testimony?

BROWN: He corroborated that he and Joe talked. He corroborated that he got a call from Barbara Campbell indicating that she apparently screwed up or goofed up and needed to come execute a document. And that they, Joe and he, considered it a clerical error and that one or both of them had visited with General Counsel or Chief Counsel Randy Sparks.

RICHARDSON: But Randy Sparks did not testify?

BROWN: Randy did not testify. Randy has charges pending against him as well for, I guess the same three counts.

RICHARDSON: And that's the obvious reason that he did not testify.

BROWN: I think that's one of them. I'll admit to you that there was some strategical decisions that we made at that point not to call Randy. But, it was also 5:30, 7:00 o'clock on Friday night and we knew the jury wanted the case that night. And that was the decision that we had made at that point. Let me, if I could give you a copy, I'm almost done. If I could give you, I'd indicated to you that there had been a letter Mrs. Campbell had presented to Judi on the day before she resigned, on the day she resigned, which we believe is a threatening letter. Which goes to the issue of her credibility. After she wrote that letter, indicating problems with Tim's candidacy, Mrs. Moriarty wrote a letter and asked her to specify.

Again, given an opportunity to state specifically what the problems were with Tim's filing, she did not respond to that. So my purpose in presenting that to you is to show that both by the lawyer's letter, Mr. Edward's letter, and an opportunity immediately given to her by Mrs. Moriarty to state specifically what was the problem with Tim's filing she did not opine or give the facts which ultimately came to be charged against Judi.

WITT: Did you assist in drafting this?

BROWN: Yes, I did. You can bet on it.

WITT: I thought it sounded like your language.

BROWN: I quite frankly, from what I'd seen, I did not believe that what she was saying was correct and I thought that we should send that letter and give her opportunity to explain her conduct and her allegations, which she did not explain.

WITT: Any other questions by members.

BROWN: The only . . .

WITT: Representative Wible.

WIBLE: Thank you. The independent management review team was, what was the make-up of that?

BROWN: Three people. Bert Doerhoff, who is a CPA here in Jefferson City. Jahnae Barnett, President of William Woods College, William Woods University in Fulton. And Larry Carp, a lawyer in Columbia, in St. Louis. Bert is a Republican, Jahnae is probably if a Democrat a very conservative business

oriented person and Larry Carp is a consumer advocate Democrat.

WIBLE: If what, what did they do?

BROWN: A lot, they'd listen.

WITT: Connie, see this stack on your desk.

WIBLE: Yes.

WITT: That's what they created and there is a, their report on there too.

WIBLE: But they didn't create, but they didn't begin creating this immediately following the June 14th letter did they? Or is all of this . . .

BROWN: Well, it all came as a result of Charles Campbell's resignation letter where he made a list of allegations and the Secretary put together this team to review those allegations and they began then taking testimony. I don't remember if they started in July or August, but they had several different sessions in which they took testimony and then released their report, I guess, what, Monday or Tuesday this week.

WIBLE: All right. And this was the initiation of that process.

BROWN: The initiation, I don't know if you all have the letter, I haven't given it to you but there was a resignation letter by Charles Campbell where he made certain allegations, preceded by the letter claiming sexual harassment, Judi's transferring of Barbara to archives so that there was a boss between her and Jim Kolb, the investigation. Barbara never showed up to work again. And

then upon Charles being told by Barbara that she'd been transferred, Charles and Judi were at a function at the Missourian in Columbia, he got very upset, threatened her, told her that "we'll bring you down" and then submitted his written resignation and Judi took that written resignation and put this task force together to address each one of his allegations.

WIBLE: Thank you.

BROWN: And I believe one of the things said at the end of that report is that the functioning of the office at this time was exemplary. I think they used the word "exemplary."

WITT: Roger, do you have anything else?

BROWN: I'm surprised your not ready to throw me out of here. If I can find one tablet. I've got one thing I've got to say for the record.

WITT: Make your statement for the record then.

BROWN: In light of this proceeding, and I certainly give all of you credit for asking good questions, and it's as late for you as it is anybody else. I have a concern about due process. I have a concern about the sunshine law. And I appreciate the circumstances and quite frankly I'm very happy to have been able to present to you these documents in our presentation of the facts. But, I believe due process where a person's job is potentially would be taken away from them would dictate that at least the sunshine law be complied with, with the 24-hour notice, and if it is truly an emergency then that emergency needs to be stated. But from a

more fundamental due process standpoint Mrs. Moriarty has two lawyers that are representing her. Myself and Mr. Riederer. Mr. Riederer was in Kansas City in court today and will be in court tomorrow and quite frankly to put this case together and to do justice for Mrs. Moriarty I don't think can be done in four hours. And as you see there is a lot of evidence, there's a lot of testimony, and I think that in such a serious case, one - that none of us have ever seen before and hopefully will never see an impeachment again - I think all concepts of due process, equity, and fairness need to be applied. And to have a motion voted on today and a hearing this quick, with such potential ramifications, I think deprives due process. And I think that that is one of the effects that the Supreme Court may very well look at if an article is written. I would ask you all to look at this evidence and determine as I have that it is not the type of evidence, it is not the type of acts, in any light that you put it in to warrant anyone to be impeached, removed from office. And at least allow the judicial process to function as far as the criminal actions. I appreciate it as late as it, Judi is here, if you would want to hear from her all would say is I'd like at least a short break so I can clean this mess up. But if you would want to wait till a later time to hear from her I think that that would be appropriate as well. Because quite frankly I have spent no time with her since you all came off the floor, because as soon as you set this committee I came back to make copies and blow-ups and all that. So I have had no more than two minutes with her since this afternoon. So I will answer any further

questions or do anything else I can to help you. But I would ask you not to issue articles. I just don't think that a million, one hundred thousand people can be all that wrong about who they elected to Secretary of State. Now I appreciate you all doing this; I appreciate your being patient with me.

WITT: At this time the committee will take a five minute recess. We'll leave at that time, we'll decide before then whether or not we'd like to hear from the Secretary but I believe we would at that time. Five minute recess.

• RECESS •

WITT: Mrs. Moriarty, would you like to come forward. Unless there is some objections from the members of the committee I have told Mr. Brown for expediency sake if he wants to do an examination like a direct examination rather than just have a statement made by the Secretary of State that we will accept that. Is there any objection from the members of the committee? (End of tape #6) Raise your right hand. Do you solemnly swear or affirm that the testimony you shall give now pending before the committee shall be the truth, the whole truth, and nothing but the truth so help you God?

JUDITH MORIARTY,
SECRETARY OF STATE: I do.

BROWN: Judi, first off would you hand me that pen so I could maybe write some questions down here? Mrs. Moriarty with regard to your son's filing for

office, I don't want to dwell long on it but on March 21st can you and will you relate to this panel Tim's intent as he expressed it to you to be a candidate for the Missouri House of Representatives?

MORIARTY: Well you know all these dates have been brought up various times and you try to think back to what happened. I do remember, at the trial it was brought up, was he in the MSIC building? And I do remember him coming through that building the day he filed and talking to some people. He'd left to go over to the Department of Labor and then came back to the Capitol office some time in late afternoon and filed with Barbara Campbell.

BROWN: Judi, with regard to Tim and your discussions about him being a candidate, did you have some reservations about him being a candidate?

MORIARTY: I had some reservations. I felt the district he was running in had some disadvantages. It's a, kind of, district that is fragmented. It's in, takes in all of Lake Lotawana and a part of Lees Summit, part of Kansas City, Raytown, I mean it's just kind of edges here and there. You'd have to go door to door if you had any hope to win. And it was held by a Republican. And he would have to run in a Democratic primary. And I thought it was kind of an iffy race.

BROWN: Had Tim made up his mind from what you saw on the 21st?

MORIARTY: He had made up his mind prior to the 21st. He had told me sometime when we'd had dinner maybe toward

the end of February that he intended to run for office. That it was what he wanted to do.

BROWN: Now with regards to him filing on the 21st. What, if anything, did you do as far as supervising Barbara Campbell to file him or looking over?

MORIARTY: Well, I did not supervise anyone to be filed. I didn't do any filings. That was the responsibility of three people.

BROWN: How did you handle Tim? What did you physically do?

MORIARTY: All I did was I, I know he sat down at Barbara's desk, or where she was sitting there, actually she was at the front desk which is normally occupied by Nadine. And I left the room so he could be filed. I didn't want to interfere with his filing or be there hovering over him.

BROWN: Now when you presented him to Barbara do you recall if this was before or after 5:00 p.m.?

MORIARTY: It was in the afternoon. It was before close, before 5:00.

BROWN: If Mrs. Campbell indicated to the jury at trial it was after 5:00, would that not be correct?

MORIARTY: That is not true. We did not file any candidates after 5:00. Not that I think that's an infraction of the law because I believe the way it's stated it's filing opens at 8:00 a.m. first day of filing and closes at 5:00 p.m.. And I have known instances where people have filed candidates, on the county

level, particularly for committee people after 5:00. They've gone to meetings and filing candidates. But we did not file anyone after 5:00.

BROWN: Did you do any celebration after Tim filed on the 21st?

MORIARTY: Well, we went to dinner. We went to dinner here in Jefferson City. We went over to Viets.

BROWN: When you went to dinner with your son did you consider him to be a filed candidate?

MORIARTY: I certainly did.

BROWN: Now, at some point on the 29th did you talk to Tim on the phone about his candidacy?

MORIARTY: That morning I think he called, sometime that morning.

BROWN: And what did he indicate to you?

MORIARTY: He just, well we talked and he had just said is everything all right with, he said "Is there anything I need to do, Mom?" or something like that, "Is there anything more I need to do," he just asked.

BROWN: At that point were you aware if there was anything else he needed to do or did you consider him to be filed candidate?

MORIARTY: I considered him to be filed.

BROWN: What did you do though with regard to checking as far as his candidacy?

MORIARTY: Well, I never

checked anything. I never actually looked at anyone's paperwork and I'd never seen Tim's on any occasion till after all this had come up. I'd just had asked Barbara in the course of going somewhere. We'd talked about what I did that day because there was so many stories about her coming into my desk and saying that I told her to file him when no one was there and she'd done this at noon, and I went back and checked my schedule and I had three luncheons that day and the first one started maybe around 11:00 and the second one, and I didn't get back to the office till maybe two, you know I had just, was gone. So all I did was ask her in the course of coming or going "Is there anything more Tim needs to do or is everything all right with his filing?"

BROWN: What was her response?

MORIARTY: That it was.

BROWN: Now you, we've seen this particular document that I have over in the filing. Did anyone present to you on the 29th a Declaration of Candidacy for Tim that did not carry his signature?

MORIARTY: No.

BROWN: If you had been presented that what could you have done or would have done as far as getting Tim into the office?

MORIARTY: I would have, if I would have been notified that there was a document without his signature, I would have called him or tried to notify him to get in there before 5:00.

BROWN: Did Tim on a fairly

regular basis come to visit you in Jeff City since you've been the Secretary of State?

MORIARTY: Well, off and on, you know when he can. He's, yes, he's, well he would have come over for that.

BROWN: Now at some point and time did you learn that his candidacy, his Declaration of Candidacy did not carry his name or anyone attesting to it?

MORIARTY: Right.

BROWN: Can you explain how that happened?

MORIARTY: The whole unfortunate incident I have to say that I discovered. That all of this came about because of me asking for his, a copy of his filing.

BROWN: Why, what did you do when you asked for a copy of the filing?

MORIARTY: Well, I'd asked Juli to call over to elections and see if they would fax over a copy of his candidacy.

BROWN: All right, and the reason that you were doing that?

MORIARTY: Well he had, there was a new law went into effect this past year that caught a lot of candidates off guard on that first quarter report. And he didn't know he'd had to fill it out. And he'd gotten some kind of notice that he had a fine. And he'd called me and asked me if I could help him get that report.

BROWN: Did you help others in past fill out their election . . . ?

MORIARTY: Well not as Secretary of State. When I was

County Clerk I've helped tons of people do their election reports or campaign finance reports.

BROWN: Now the Declaration of Candidacy carries his precinct and district and all that does it not?

MORIARTY: Right.

BROWN: Now once you had asked Juli to retrieve his Declaration of Candidacy, what did you find when she brought to you the faxed copy?

MORIARTY: Well the first thing she brought me was his worksheet and I said no I want to see his declaration. So she must have called back and had that faxed over and brings me in this faxed copy with no signatures on it.

BROWN: Would you, what was your reaction at that point?

MORIARTY: Well I was kind of astounded. I, you know, I asked her, I get up and go out and see Barbara Campbell, I don't know if she was in the outer room or the kitchen or somewhere there and I said, "What is this? Why isn't it signed? Where, why aren't the signatures on there?" And she starts apologizing, says she doesn't know and she's very sorry and she repeats that at least twice.

BROWN: Did you then do anything or have a concern about the legality of Tim's filing?

MORIARTY: Yes. I was concerned if he was a legal candidate. And I went back and called elections and talked to them about it.

BROWN: Do you know who you specifically talked to the first

time?

MORIARTY: I really don't. I thought maybe it was Joe or Randy. I, it was either Joe or Randy in elections. And maybe the more I've thought it might have been Randy, I mean, Randy, Gene Wiseman, I'm sorry it might have been Gene Wiseman over there.

BROWN: Who is the head of the elections?

MORIARTY: Joe Carroll.

BROWN: And his title?

MORIARTY: Well, he's a Deputy Secretary of State for Election Services.

BROWN: And then Gene Wiseman's title?

MORIARTY: Is Director of Election.

BROWN: And then Randy Sparks is what?

MORIARTY: He's the Chief Counsel.

BROWN: All right. Now, with regard to election issues. Not this one but in general. Does the Elections Division handle inquiries on any basis from counties as far as election problems or elections?

MORIARTY: Right.

BROWN: Law interpretation?

MORIARTY: Right, we are, we work in an advisory capacity to counties or election authorities and county clerks around the state. And after this came up I put Randy on, you know, a different assignment and took him off of elections. And we

pulled in another attorney from securities division named Brett Berri. Just for election reference, for counsel there because we need someone that can answer questions almost, you know, a daily basis and this year it's been very busy with all the petitions and different questions that have come up.

BROWN: With regard to the document that was found without your son's signature or any attestation, were you given advice from elections and your counsel as to what should be done?

MORIARTY: Well, all anyone ever indicated to me is that it was a clerical error and that was how we corrected our own errors. That, you know, was to get the signatures. He said it was our fault, it wasn't the candidate's and had it been any other candidate in this state that had filed and there were five hundred and seventy some candidates, and if we had left your signature off you would have expected to have it made right. You would have expected to come in and correct it or you could sue us.

BROWN: What was the circumstances as far as any analogous situations or anything other than corporations or otherwise?

MORIARTY: Well, I am not an attorney and I heard Connie ask some, Representative Wible ask some question and those are good questions. I don't know the answer except that I am told in corporations if signatures are left off that we don't dissolve that corporation. Even if it's a multi-million dollar corporation, you know, we get that signature. And the same thing in

commissions that if there is a notary commission comes in you don't, you know, take away their right to be a notary, you get the signature. So that was the way they explained it to me.

BROWN: Now, Judi, at trial Barbara Campbell indicated that upon the discovery of the absence of signatures you ordered her to go sign her name.

MORIARTY: Well, I never did order Barbara to go sign her name to anything. I mean Barbara was a very take charge type of lady and never wanted to make mistakes to start with. And she was, I know, upset because she had made an error. I felt she was upset and wanted to correct it herself. And I never did order her to go sign. I only talked to elections about it and as far as I knew she had contacted them directly.

BROWN: In terms of the correcting of the error. Once you had been advised by either Mr. Sparks, Mr. Wiseman, or Mr. Carroll of it being a clerical error and a correctable error, did you leave it up to them to do the corrections?

MORIARTY: That's correct.

BROWN: Didn't seek an Attorney General's opinion or any other legal opinion other than your own chief counsel?

MORIARTY: No. Not until after this came up and then we did write the Attorney General.

BROWN: Fair to say-at that time you and I didn't know each other?

MORIARTY: No.

BROWN: With regard to the

allegations made by Mrs. Campbell against Jim Kolb did you receive the letter making a complaint of gender-based discrimination against Jim by Mrs. Campbell?

MORIARTY: No.

BROWN: All right. How did that letter come in?

MORIARTY: Well, I was in St. Louis that day and I'd spoken to a group that morning and about 10:00 I got a call out of that meeting and the attorney was on the phone and said there is something pretty serious had come up in the office, that there was a letter had come in from Barbara Campbell through her attorney, I believe. Stating that she'd, you know, was, it was like a warning letter of sexual harassment and I was very concerned about it.

BROWN: That warning letter had been delivered to her . . .

MORIARTY: Hand delivered to Jim only but I got back into Jefferson City and I had a copy of that letter from that, well that attorney I think is the one who actually drafted it. And there was at the same time a personal note for me from Mrs. Campbell stating that she didn't want to worry me with it. That's something she felt she wanted to handle between herself and Jim as two professionals, I believe the letter said, and that she did not want to worry me with it. And I took that very seriously. That's kind of where this whole thing started peaking because of, that was kind of weekend, I'd say that was Friday at night I got those letters. I kept looking at those two letters all weekend. The one from her attorney to Jim and the one to me that was

handwritten stating that she didn't want to bother me with a sexual harassment claim. And I knew I had some duplicity there that I had to deal with. And I had two people working for me that, you know, I had to get to the bottom of what her claim was and then why she would take it in her own hands to deal with it, when here I am a woman in office and I don't want women that work for me to tolerate that type of treatment. So this, it was very serious to me and I felt that she was going around me trying to deal with something that could ultimately hurt me. Which right now, you know I've been, had so many things that doesn't seem very large in comparison. But that really, that's what, this, came to a head on the Monday then we had the meeting in Columbia, Missouri, at the Columbia Missourian and I was over there talking to them about a computer program that we were interested in working with newspapers to take current events to classrooms in Missouri and Charles was there, Charles Campbell, and this call came in from Barbara. We were going to transfer her to the Archives Division, take her out of the administrative where she would not deal directly with Jim, neither by phone or by person, put her under a director, a division director while we looked it this. And that's when he became very agitated after she called him and told him about this and he took me into a room where we were ready to, I was ready to talk to journalism students and he made the statement to me, he just said, "We will bring you down." And he left and that's, until we went for some deposition that was the last time I had seen him. And the next morning is when he took all of these allegations to

the paper and brought me the copy of his resignation.

BROWN: Is that also the next day when you receive that short letter that I passed to you?

MORIARTY: The short, yeah, the threat letter from Barbara.

BROWN: Judi, with regard to the handling of your son's candidacy, do you believe you showed any favoritism to him over other candidates?

MORIARTY: No. I did not.

BROWN: Do you believe that at any time you directed your employees to do anything that you believed to be inappropriate or illegal?

MORIARTY: No.

BROWN: I don't believe I have any further questions, Mr. Chairman.

WITT: Okay. Judi, you said that back when you were a clerk prior to this you helped a lot of different people fill out financial reports and that kind of thing.

MORIARTY: That's correct.

WITT: Is there anything on the Declaration of Candidacy, information from that that has to go into the financial report?

MORIARTY: Well, it depends on the one you're filling out. The particular one he needed was just a short form. It was an inactivity form. And it had the date of the election, the type of election, the district you're running from and that type of thing.

WITT: So why was it necessary for you to get, I mean couldn't

you have gotten the information, didn't you know that information off the top of your head?

MORIARTY: No.

WITT: Or if you didn't, when she brought you the original form, you said she brought you the one form that he'd filled out, that he'd written

MORIARTY: Right.

WITT: stuff in. Didn't that have all of the information?

MORIARTY: No.

WITT: Why did you have to have the Declaration of Candidacy?

MORIARTY: It doesn't have everything on it the same. There's a couple pieces of information that are not on that.

WITT: What are those?

BROWN: Good question because it came up at trial.

MORIARTY: I don't know. It is a good question. Right now I can't tell you. I think maybe it's the district, the date of the election.

WITT: You need a few more toys there, Roger.

BROWN: Yeah, I know.

MORIARTY: Well you'd have to see the form. There were two or three things on that form that this didn't have on it that's on here. And it was the type of election, I believe, that he's running for, the primary election that this states on here.

WITT: But you knew he was

running for the primary, didn't you?

MORIARTY: Yes.

WITT: Okay. So what information is on the Declaration of Candidacy that isn't on this other form that you needed to fill out the financial report or needed to find out for him so he could fill out the financial report?

MORIARTY: I don't know without seeing that report but there were a couple of items that aren't on the worksheet. And frankly I knew I, this worksheet wasn't the declaration. I wanted to see this declaration.

WITT: Isn't the declaration, doesn't it, all the information on the declaration come from the worksheet? The candidate fills that out and they...

MORIARTY: Right.

WITT: create the declaration? So....

MORIARTY: But there are some, okay the date of the election's not on there, for one thing. That was one thing that had to be on there was the date and it is already imprinted in here.

WITT: You weren't aware of when the primary election was?

MORIARTY: No. Not off the top of my head.

WITT: And you couldn't have gotten it?

MORIARTY: The first Tuesday and

WITT: Yeah.

MORIARTY: After the first Monday in August but

WITT: But you couldn't have gotten that other, around your office I'd think that

MORIARTY: Well there's

WITT: everybody, half the people would know it off the top of their head.

MORIARTY: I mean there is nothing illegal about me asking for it, Gary.

WITT: Oh, no, no, no, I'm not saying there was anything illegal about you asking for it. I'm just trying to figure out why it was important to get that document, since that seems to be, according to your testimony, the first time you realized his signature wasn't on it.

MORIARTY: That's right.

WITT: So that's why I'm trying to find out why it was important to receive it at that time.

MORIARTY: I knew he should have something other than that worksheet in his file. That's why I asked for a copy of it.

WITT: Okay. On the 29th you said Tim called you and was asking if there was anything else that he needed to do. If he, I mean, if he'd done everything he was supposed to do back on the 21st when he filed what, why would he suddenly be calling on the 29th and asking what else he needed to do?

MORIARTY: I think it was just a matter of conversation.

WITT: Okay. But he was concerned enough about it, or you were that you went and at

least asked Barbara Campbell, "Is there anything else? - is everything filed properly?" you . . .

MORIARTY: Right.

WITT: When you determined that his signature was not on there you had a Declaration of Candidacy that didn't have the signatures on it. You could have asked him to sue you to get on the ballot,

MORIARTY: That's right.

WITT: which is one way of doing it.

MORIARTY: He considered it, he talked about it.

WITT: You could have asked for an Attorney General opinion.

MORIARTY: Correct.

WITT: You could have filed a separate affidavit with it that laid out the facts that I was in there on the 21st. I filled out all the forms. I signed it. My signature does not appear on the one that is here and I'm now attesting that all of these things

MORIARTY: That should have been done, Gary.

WITT: But that wasn't done?

MORIARTY: That wasn't done, but that should have been done in the office over there. I see that now. I mean it's very clear looking back that they should have documented when Barbara came and when Tim came and what had happened and had her sign at the time what had taken place.

WITT: It's a, it's difficult for me

to believe that we've got a sworn statement, everything up here is contained and then sworn before me down at the bottom of it and that all that information is correct but yet we're adding peoples' signatures to it months after it was supposedly signed. That just doesn't seem reasonable that we're just going to add the signatures without doing some of these other items and a, I'm just having trouble, can you explain that to me, why we just decided to add the signatures versus going through anyone of these other options.

MORIARTY: Asking the Attorney General?

WITT: Asking the Attorney General for opinion, asking your son, because you knew this was going to be scrutinized because of your position or his position.

MORIARTY: I did not realize how sensitive it was until this had happened. No, I didn't.

WITT: I mean you could have asked him to sue you to get on the ballot. You could have attached a separate affidavit. There are a lot of different ways this could have come about rather than just adding the signatures to it and putting it back in the file, that

MORIARTY: I was always told that it was our error. I was always told that. I, I've had, you know, since that time some of the office help to go through some of the other states and check their filing or some things we could do to prevent this happening in the future. And it was interesting to note that a lot of states you don't even have to appear in person to file. Most of the states we contacted and you can have someone else file for

you, you can mail it in, you can fax it in. One state particular had a policy that there was a seven day period after the filing ends to check all of the documentation. And if they didn't catch it then whatever was left undone the candidate was protected. And I, you know, maybe Missouri needs, I think we need some law to protect the candidates in this case.

WITT: Any questions of the members of the committee? Representative Wible.

WIBLE: Thank you. You indicated that, I believe that what you said was that is how we corrected our errors. It was a clerical error and that is how we corrected our errors, we get the signatures. How many of times have you done that?

MORIARTY: That is the only time I know of.

WIBLE: So you're unaware of any time that a signature was ever left off?

MORIARTY: Right.

WIBLE: And to follow up on the corporate documents. Now if you

MORIARTY: I don't know if you get technically legal I don't that I can answer. I was, what I told was that was how we corrected that.

WIBLE: And do you know what date is placed on

MORIARTY: On the correction?

WIBLE: on the correction?

MORIARTY: I don't know.

WIBLE: On the 21st you

thought that Tim was a fully filed candidate. So you were totally unapprised of the holding back of the filing in the back of the drawer. You didn't know about that?

MORIARTY: No. I did not know that.

WIBLE: Did you think it was strange when he called you on the 29th to find out if everything was all right?

MORIARTY: No.

WIBLE: Did anyone else call you on the 29th to find out if their filing was all right?

MORIARTY: Well that's my son, we talk a lot.

WIBLE: What was your thinking when you went to Barbara to follow up on that? Is everything with Tim's filing all right?

MORIARTY: Just casual. Just very casual.

WIBLE: Did you ever inquire if anyone else's filing was complete?

MORIARTY: No.

WIBLE: Thank you, Mr. Chairman. (End of tape #7)

WITT: Representative Gaw.

GAW: Thank you, Mr. Chair. Just heard you say that on the 21st you believed your son was a fully filed candidate.

MORIARTY: Yes, I did.

GAW: And you had no question about it on that date?

MORIARTY: No.

GAW: Then you talked to him on the 29th, is that correct?

MORIARTY: Right.

GAW: How many times?

MORIARTY: I don't know.

GAW: More than once?

MORIARTY: I think I talked to him twice that day. I think once in the morning and then maybe late in the afternoon.

GAW: And did you call him or did he call you?

MORIARTY: I think he called me.

GAW: You don't know that to be the case?

MORIARTY: I don't know. But we did talk a couple times.

GAW: And on that day he asked you about whether his filing was okay. Is that your testimony?

MORIARTY: Right.

GAW: And you didn't just answer, "Yes, it's fine."

MORIARTY: Well I may have. I don't know what I said.

GAW: I thought that you said that you inquired of others.

MORIARTY: I asked Barbara later that day, "Was everything all right with Tim's filing?" I don't know, remember what I told him. Maybe said, "I'll check," or "I'll ask" or something but I don't remember exactly what I said.

GAW: So you don't recall. Now this was the first conversation with him.

MORIARTY: That morning, right.

GAW: That's when the discussion was held about whether or not he was properly filed.

MORIARTY: Right.

GAW: And you believe you told him "yes."

MORIARTY: "Yes, I'll check or something" or "I'll ask, I'll inquire." I don't know what I said.

GAW: You don't remember?

MORIARTY: No. Not exactly.

GAW: And then at some point in time after that phone conversation you had a conversation with Barbara Campbell?

MORIARTY: Some time that day, yeah. That morning maybe.

GAW: Now, I'm sorry.

MORIARTY: I don't know when, but I think sometime before I went to that first meeting, maybe, I'd ask her.

GAW: Was this conversation you had with her about the filing?

MORIARTY: All I did was ask her something like "Is there anything more Tim needs to do?"

GAW: And what did she tell you?

MORIARTY: That there wasn't.

GAW: All right. Was this before your second conversation with your son?

MORIARTY: Yes.

GAW: And when you talked to him the second time, did you have a conversation about whether his paperwork was properly filed?

MORIARTY: I don't remember. I maybe did. Maybe told him everything was all right. I don't know.

GAW: You don't recall?

MORIARTY: Not really.

GAW: But you do know that you talked to him about questions about his filing. Is that correct?

MORIARTY: Well, that morning I did.

GAW: But you're not sure about the afternoon phone call?

MORIARTY: I don't know. I don't remember what we talked about.

GAW: If I understand you correctly, you had no questions on the 21st that he was properly filed.

MORIARTY: No.

GAW: And yet when he called on the morning of the 29th you felt it was necessary to talk to Barbara Campbell about whether he was properly filed when he asked you that question. Is that correct?

MORIARTY: Well, I inquired. "Is there anything more he needs to do?" He asked me that so I asked her.

GAW: How long have you known the Campbells?

MORIARTY: I have known who

he was since I was a young girl. We grew up in the same county.

GAW: Did you go to school together?

MORIARTY: Well he's older, a littler older than me. He went to school with my sisters.

GAW: I see. And was he working at the Secretary of State's office when you took that office?

MORIARTY: No. I hired him in January. He worked for me five months. He came to me looking for work.

GAW: He came to you asking for work?

MORIARTY: Yes, he did. He came to me asking for work. She'd come to me first and I'd hired her first.

GAW: When was she hired?

MORIARTY: November.

GAW: November of 93?

MORIARTY: Of 93. There was another instance, Representative Wible, someone else in the Secretary of State's office did call me about their filing, talking about only paying their

fee and thought they were filed this year. So there might have been more people that did inquire. But this was a someone running for State Representative that called me.

trying to tell me that she almost didn't get filed because she'd only paid her filing fee and thought she was filed. GAW: Do you want to follow up on that before I go on?

MORIARTY: I mean I just thought of, I just thought of

that.

GAW: I yield to Representative Wible.

WITT: Proceed.

WIBLE: She called and told you she almost didn't get filed?

MORIARTY: Yes.

WIBLE: What was that on the last day of filing or?

MORIARTY: I think it was.

WIBLE: And had she'd come in and

MORIARTY: She'd paid her money.

WIBLE: finished the paperwork?

MORIARTY: She'd paid her filing fee and thought she was filed and someone asked her: did you do that other paperwork? And that you needed it done and she said "what paperwork?" And she went back in and got filed but . . .

WIBLE: But she called someone else in the Secretary of State's office

MORIARTY: Yes.

WIBLE: and found out that she had not filed properly?

MORIARTY: Well, I don't know who she asked about it. She was walking around with just a paid receipt and thought she had filed. You were asking me if there were any other instances.

WIBLE: Of anyone who'd inquired.

MORIARTY: Yes.

WIBLE: And when she, but she didn't call to inquire of you whether everything was all right. Is that correct?

MORIARTY: She just wanted to tell me about it.

WITT: Proceed, Representative Gaw.

GAW: Thank you. What was that individual's name?

MORIARTY: McCulley, I think it is, in Jefferson, around where Cape Girardeau is.

GAW: McCulley. You don't remember what office she was filing for?

MORIARTY: State Representative.

GAW: And she was not filed?

MORIARTY: She filed, she got filed. But she almost didn't because she was telling me she'd paid her money and was walking around with the paid receipt thinking she was filed.

GAW: When did you become, when did you get acquainted with Barbara Campbell?

MORIARTY: Well she is his second wife, so I haven't known her very long.

GAW: How long have you known her?

MORIARTY: I've known who she was for a few years.

GAW: Two years?

MORIARTY: A few years.

GAW: Oh a few years. I'm sorry.

MORIARTY: And never been around her very much until she was hired. Maybe met her briefly a couple times.

GAW: What was your relationship with Charles Campbell prior to his marriage to Barbara?

MORIARTY: I hadn't really been around him in probably 30 years except just briefly. I had known the family. I'd always respected and liked them and I had a really high estimation of him at one time.

GAW: And you hired Barbara last fall on anyone's recommendations or just...?

MORIARTY: Well, because of the family friendships and I had her resume, she presented herself very well and I thought she could be an asset to the office.

GAW: What position was she hired for?

MORIARTY: She was hired to replace a lady that left in the Capitol office to work with scheduling and other office duties, correspondence and assisting in the office.

GAW: Do you know about what she was making when she started?

MORIARTY: Twenty-four thousand, I think.

GAW: All right.

MORIARTY: I don't.

GAW: That's all right. That's your estimate though, somewhere around there. And then a few months later you hired her husband.

MORIARTY: Right.

GAW: And what position was he hired for?

MORIARTY: He was hired to come in and work with the directors and work with personnel in the information center. I wanted him to develop some quality control programs and employee training. I wanted him to work with some of the recommendations that are made by the review team on job descriptions. Which he did start some of those things.

GAW: Do you recall, was that a created position or was it a position he was filling for someone that had vacated that position?

MORIARTY: We had an opening for the position.

GAW: Who had had that position prior to that. Do you know?

MORIARTY: I don't know. He was going to be working with the State Library as well. And that was new to us. But I think I hired when I first hired him, I think, maybe it was Administrative Assistant and then he, we, he was Deputy Secretary of State for Library Services.

GAW: Was that when he was hired or sometime right after that?

MORIARTY: When he, no - that came a little bit later than the Library Services. I think first, I don't know how, exactly what his title was when he was hired. But I did give him the title at one point of Deputy Secretary of State.

GAW: Okay. And was that, that was within that five-month period?

MORIARTY: Right.

GAW: Is that correct? Do you recall what he was making when he was hired?

MORIARTY: He was making, I think, forty thousand when he left.

GAW: Was that what he was making when he was hired?

MORIARTY: I don't know if we hired him in at that or not. I can't....

GAW: But when he was Deputy Secretary he was making around forty.

MORIARTY: Right.

GAW: Okay. Now Barbara Campbell gave you some notice that she felt she had been harassed, sexually harassed. Is that correct?

MORIARTY: That's correct. No. She did not give me any notice.

GAW: I see.

MORIARTY: None.

GAW: You found out about it.

MORIARTY: I found out about it.

GAW: And how did you find out about it?

MORIARTY: Through a copy of a letter that her attorney had sent to Jim Kolb.

GAW: And how did you get a copy of that letter?

MORIARTY: The, I was copied, I think the attorney copied me on it.

GAW: So you got a direct copy from her attorney.

MORIARTY: No, no, no. The attorney in our office. The attorney in our office copied me. No, I didn't get any direct, it was only delivered to Jim Kolb is the way I understand it.

GAW: I see. So you believe, you got the copy from an attorney in the Secretary of State's office.

MORIARTY: Right.

GAW: And which attorney was that?

MORIARTY: That would be Randy Sparks.

GAW: Okay. And when approximately did you get notice of that?

MORIARTY: That morning shortly after it had arrived I told, earlier I was in St. Louis that morning.

GAW: But about what date though is what I'm after?

MORIARTY: Oh that was on the Friday before this all happened, like June 10th.

GAW: All right. And you had a conversation then with Charles was it?

MORIARTY: Well, that was on the following Monday.

GAW: About this letter?

MORIARTY: No, I had no conversation with them about the, that

GAW: Did you...?

MORIARTY: at that time.

GAW: Oh, at some point in time did you have a conversation with one of the Campbell's about this letter?

MORIARTY: No.

GAW: But you did make a decision to move Barbara?

MORIARTY: Yes.

GAW: And when was that decision made?

MORIARTY: That decision was made by early Monday morning.

GAW: That would have been after

MORIARTY: On the, after that Friday.

GAW: after the 10th, the following Monday.

MORIARTY: Right, I felt I needed to take, you know, some direct action.

GAW: But you didn't talk with Barbara about the question of this sexual harassment?

MORIARTY: Well, I had intended to. You know, I got the letter myself on Friday evening.

GAW: But you had already made the decision before you

MORIARTY: Right.

GAW: had talked to her to move her. Is that correct?

MORIARTY: That's correct. That's correct.

GAW: Would that....

MORIARTY: I thought if she felt it were important enough to have an attorney write him a warning letter that she's being sexually harassed, and if you read the letter it's, states quite a lot of concerns she has, that I need to take some kind of action and investigate it and talk to her.

GAW: Was this a permanent move?

MORIARTY: I don't know. We never had a chance to really make any decision about that.

GAW: But in your mind was it a permanent move?

MORIARTY: I don't know.

GAW: So your, at least on that basis your initial reaction to this allegation of sexual harassment was to move the complainant?

MORIARTY: Well, to take her out of an area where she felt threatened.

GAW: Did you, had you had a conversation with Mr. Kolb in that time frame prior to making that decision?

MORIARTY: Right.

GAW: And when was that conversation?

MORIARTY: I think, I don't know, maybe that Monday morning.

GAW: Did he deny the allegation?

MORIARTY: Yes.

GAW: You said earlier that you had had some, you had known of when you were in, a County Clerk previously that at times

there were committeemen filed out of time and things. There were late filings and things. That you had heard of those things happening. Is that correct?

MORIARTY: I just heard of it this year. Someone wrote us a letter asking about it in the county where they lived. That it was taking place and I don't remember the county but I think it happens.

GAW: But you have never witnessed it happen?

MORIARTY: Witnessed it? I didn't see it. No. I didn't see this happened. I just had a letter about it.

GAW: All right. So this is one incident that you've heard about?

MORIARTY: Right.

GAW: If, is there a, in regard to the position Secretary of State with the County Clerks when they have questions in regard to elections and election filing or candidate filings, do they, are they normally, do they normally seek the opinion of the Secretary of State's office?

MORIARTY: Yes. When I was County Clerk we called the Secretary of State's office regularly for advice and their attorney.

GAW: You are the election authority for the state?

MORIARTY: That is correct in title. But I have people that run that division. I take the ultimate responsibility obviously. But I have people that do day to day work in that division, and answer the phones

and take responsibility for those answers that are given to election authorities in the state.

GAW: Judi, are you, you have seen these two exhibits. I think it's 16 and 17. I, you may have to look at them. They're both declaration of candidate forms. One has a signature of Barbara Campbell. I think that's 17. And one had "record not found," or something like that.

MORIARTY: Right.

GAW: With no attestation at the bottom.

MORIARTY: Right.

GAW: You've seen those?

MORIARTY: Right. I've seen them several times.

GAW: Are you aware of who would have prepared either one of those documents?

MORIARTY: I believe Barbara Campbell prepared both of them.

GAW: You believe she did?

MORIARTY: Yes, I do.

GAW: And do you have reason to believe that?

MORIARTY: I do. Tim is the one she, he filed with her the day he was in and she never denied she did the other one.

GAW: She never denied she did?

MORIARTY: No. Throughout all of this I don't think she ever said she didn't do it. So . . .

GAW: And, was it common for her to prepare these types of document?

MORIARTY: Well, she was one of the people responsible for taking filings.

GAW: I see. And, so was it normal for her to prepare these kinds of documents?

MORIARTY: During that filing period, yes.

GAW: All right. Now in the exhibit 17 which you say was prepared by Barbara Campbell and indeed is the one that has her signature, and I believe everybody agrees that it was signed after the filing.

MORIARTY: Right.

GAW: There are some notations in regard to precinct and address. And on 17 it talks about the fifth precinct which "precinct" I think is misspelled. I'm sure of that.

MORIARTY: You might note that "precinct" is misspelled on both of those.

GAW: Yes, it is, isn't it?

MORIARTY: So, in that, I asked our computer person about that because I thought maybe I had found a clue. But he said that was entered into the program.

GAW: I see. Well on, on the word before, on the, on just before word "precinct" on one document it says "5th" I believe. Is that correct?

BROWN: I don't think I have the other one here.

MORIARTY: I don't know.

GAW: May have to turn them around,

MORIARTY: The only thing

that I noted that seemed unusual is that Tim's name was spelled out exactly on the, on the one I would call the original one, his name is spelled out exactly as he did his worksheet. If you have the worksheet to look at you notice the Timothy J. "Tim," in parenthesis, Moriarty and on the one that was done later the Timothy J. "Tim" was in quotations.

GAW: Yes.

MORIARTY: But the original one looks like it was identical to the worksheet and was signed identically to the worksheet that was signed.

GAW: Identical in a number of other ways. Isn't it? Because on the worksheet exhibit 15, when it goes, when you see under 3B precinct it says "5" doesn't it? On the worksheet. And over on the exhibit 16 which is not shown as having any other signature it has "5 precinct."

MORIARTY: I hadn't noticed that one but I had noticed the name.

GAW: And on the other one, that's exhibit 17, it says "5th precinct." Doesn't it?

MORIARTY: Well, I don't know.

GAW: If you look in the grayed area down below, on the notation of the address, one on the residential address

MORIARTY: Right, rural route and RT.

GAW: has route 4

MORIARTY: That's exactly like

GAW: abbreviated which is

exactly the same as the candidate worksheet. And the other one has rural route four.

MORIARTY: Right.

GAW: But now is that correct?

MORIARTY: I did notice that. Yes.

GAW: Don't you, does it strike you as a little odd that the individual who you believe prepared both of these documents had different notation in those different places? Even though they would have prepared a number of them over the course of the filing period?

MORIARTY: Right. I thought it was interesting that the one he found, was identical to that worksheet. And I think by that time, that the, probably the Prosecutor had already picked up our files from the Elections Division with the worksheet and everything in it.

GAW: Now would it be normal for someone to say "5 precinct" up there, to type that in instead of "5th precinct"?

MORIARTY: I don't know.

GAW: If they'd prepared a number of these items?

MORIARTY: I don't know.

GAW: Okay. I don't have anything further.

WITT: I have a couple of additional questions. The exhibit that is marked 16 which is the one that Tim allegedly found in his briefcase sometime later. Is it possible that we could go up to your office right now and create that exact document

and have him sign his name to and there would be no way to tell that it was made today versus made six months ago or a year ago?

MORIARTY: Well, I think it would have to show up in the computer. You know they were talking about, they picked up all of our computers and went back through them so unless there was a way that there was a lot of names entered to fill in those spots, from what I heard Hal Hebert testify that, other than that if it was created and produced, it would show up unless there was a lot of name entered afterwards.

WITT: Well, you created it and produce it and then delete it from the system after it's printed out.

MORIARTY: The deletion still shows up, unless it's filled in by other names.

WITT: Okay. I think that is all I've got. Is there any other questions in the Representative Shelton.

SHELTON: Judi, the lady who your attorney said discarded the original document. Is she still working for you?

MORIARTY: Yes. That is, I'd like to say, that's the first I knew of this, sitting here tonight. That was not evidence given at the trial.

SHELTON: Had the Miss Hightower situation, during the appropriation hearing, she came over and she was somewhat dissatisfied and that she wasn't getting what she needed from your office for a budget. Now was that a conflict with you or a conflict with Mr. Kolb?

MORIARTY: Well Miss Hightower and I have a good relationship and you can verify that with her. And I included her on budget matters. I took her to see Senator Merrell with me personally and I, I feel I was responsible for getting the per capita up in Missouri for public libraries to where it is today. It was 29 cents when I was elected and today it is 41 cents. And we worked with the budget committees in the House and the Senate to, and the appropriation committees, to try to get a systematic way to increase the per capita for libraries, public libraries. And I worked with Miss Hightower on that and I got her three new positions that she was wanting approved. And she and I have a good relationship and I think she will verify that. She had some dissatisfaction with Mr. Kolb and that was why I put Charles Campbell as liaison with the State Library.

SHELTON: So there was a conflict with she and Mr. Kolb?

MORIARTY: Yes, there was.

SHELTON: That's all.

WITT: Any further questions Representative Wible.

WIBLE: Thank you. Does your office have a written policy for sexual, what you do with sexual harassment charges?

MORIARTY: Only what's included in the normal personnel policy at this time. You mean like a procedure?

WIBLE: Right. And the normal personnel policy, your speaking of what?

MORIARTY: Well, what is the

office, the personnel policy for the Secretary of State's office, which we updated after I came into office in 93. And we took the one that had been used by the previous administration, went to the office of a, personnel office of the Office of Administration, the personnel office, and asked them to go through it with us and update it.

WIBLE: And was this incident with Barbara Campbell handled in accordance with those procedures?

MORIARTY: Well, it would have been. You have to see she left that very day. And I think an investigation needed to have been done with all the parties involved.

WIBLE: I, when Representative Gaw was questioning you, you, I'm not sure that I was following that totally but it's my understanding that you had made a transfer for her based on her . . .

MORIARTY: She was an Administrative Assistant to me at the Capitol. And she was in the loop of administration and she had occasion to talk to Jim Kolb and they were having some controversy by telephone. I don't know that they had that many in person. But it would take her out of the need to deal with him temporarily.

WIBLE: And is that anywhere in the policy, procedures that you can deal with a sexual harassment complaint by transferring the complainant?

MORIARTY: If I felt she was taken out of the area that she was, she felt this imminent, I mean you would have to read the letter. She felt that she was

in some threatened situation.

WIBLE: Did you look at the procedures for handling sexual harassment?

MORIARTY: Well, I discussed it with the attorney and I called another attorney, who doesn't work for the office, that's a friend, and asked him how to handle this. And that was going to be the start and we were going to try to investigate. You have to remember, she did not come to me directly with any problem. She has this handwritten letter. Do you have that here?

BROWN: The complaint? No.

MORIARTY: No. The handwritten letter to me.

BROWN: No.

MORIARTY: That states that she does not want to bother me with any of this.

WIBLE: But you did become aware it?

MORIARTY: Yes.

WIBLE: All right. No further questions. Thank you.

WITT: I have just one more. Why did you chose to move her rather than the person supposedly responsible for the harassment?

MORIARTY: Because she was a person, I mean, she was in the position of, felt like she was in a position of dealing with him in an adverse manner.

WITT: But if he was causing her

MORIARTY: And I felt I could

insulate her from having to deal with him by putting her under a director. I wasn't decreasing her salary or trying to do anything to demote her.

WITT: But you couldn't move him?

MORIARTY: Well, not as easily.

WITT: I think that is all I've got. Is there anything else. Representative Shelton.

SHELTON: Judi, were you aware of a female employee who complained that Charles Campbell was harassing her?

BROWN: No. But we'd sure like to know about it. I've been praying for something like that.

MORIARTY: Are you talking about a mental harassment, a sexual harassment?

SHELTON: Sexual harassment by Charles Campbell.

MORIARTY: No. Do you have something?

SHELTON: We might.

WITT: Is there anything further?

MORIARTY: Well, I would just like to state, Representative Witt, if I could, you know, this has been, I mean this has been a terrible summer for me. I don't think there is any question that I've gone through a great deal of exposure and investigations. I have tried to be totally open as was stated. I didn't try to hide anything. When all of these allegations first came out I just thought well there's, you know, I haven't done anything wrong, so just open up. I told all the employees to talk to anyone

without fear of retaliation. And I've tried to, I mean I feel that when you're elected to public office that you have to expect a certain amount of scrutiny and you should be open to it. That is something that we're responsible to the people that elected us. To be open and to be honest and to live up to that trust. We all have a responsibility of public trust. And I have tried to be open with everyone that has asked me anything or asked anything of our office. And all of our files. You know, I mean, when this all happened and those letters that were sent, he showed you, to the Attorney General and to the Cole County Prosecutor and everyone made me realize in a short lesson of how vulnerable that we are to accusations and to what people say about us. And you know I guess it boils down, to a great extent, to my word against hers and I thought that I would be believed. And I came that, voluntarily to the Grand Jury because I thought I would be believed. I thought that I could go through a trial if that's what it took to clear my name because I would be believed. And I realize that there are mistakes that have been in my office. And I can't deny that. And maybe I was given some advice that isn't just the best of advice. I don't know if there's a case to be made (End of tape #8) for how good it is. But I never intended for a crime to be committed. And I never have felt that I committed a crime. And there was never any intention on my part to commit a crime. And all I have and the reason I'm here and the reason I've tried to outlast this thing is that I feel that I am a public servant that has tried to earn the trust of the people that have elected me. And in every office I've ever held that is all I really

had, is that trust that people put in me. And that's probably the most valuable thing I have is my own character and my name. I'm sure not going, if I have to leave here, it won't be with my pockets full of money. Because I've taken no bribes from anyone. I have nothing to gain from my son filing for office. If I'd a changed the votes for him or anyone else, you know, I would have done something pretty dastardly. And we did handle the first recount in Missouri in 54 years on a very sensitive issue with riverboat gambling and I feel that both sides of that issue were totally satisfied. They watched everything that we did. And we even found more no votes than had been first been started with. And there were a lot of challenges that went with that. And we've had other sensitive issues regarding petitions. I don't think anyone has complained about the way we have handled, and handled and seen to the way those petitions were addressed. And we had every name checked and certified. So all I can see is that one of the jurors said, "You were a County Clerk, you should have known better." That was on T.V., my son heard that. And I thought well what kind of statement was that - that I should have known better because I was a County Clerk. You know, I wish I would have known better. I wish I would have known more than the people I asked the questions of. But as it stands I did not and retrospect I would say that the year and a half I've been here I've learned a lot. I feel I've done a lot for this state. I've put a lot of programs into place that were not here and maybe never would have been here if it weren't for me and my

leadership that I took and, you know, it's just important to me that you know that I, my intentions have been honorable. And that I've gone through all of this slander not to hurt anyone else and I'm sorry for any of you that have had to take any heat because of me, if you have. But I've stood my ground because I have felt that I had to uphold my own name. No one else can do that for me and my intentions, so. That's all I guess I have to say.

WITT: Secretary of State of Moriarty, I don't think that anyone here will claim to understand what you've been through. I hope you also understand that it is very difficult for all of us sitting up here because we are having to look at another elected official. You have been found guilty by a jury, not convicted, but found guilty by a jury of a crime involving the office that you were elected to. And it is very difficult for all of us to weigh all of this and make an appropriate decision. We do thank you for coming here tonight and the lateness of the hour and appearing before us and we appreciate your counsel being here also. If there is nothing further from any of the members of the committee I would like to recess until 8:00 a.m. tomorrow morning. In the mean time I would like all the committee members to spend some time with the Grand Jury testimony. And I don't want anyone to say we don't work for a living. We are recessed until 8:00 a.m., Representative Richardson.

RICHARDSON: Is it appropriate at this time to make, for us to make request of additional witnesses that we would like to hear or should we

do that in the morning?

WITT: Yeah, let's work at that in the morning. (End of tape #9)

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PROCEEDINGS

September 23, 1994

REP. GARY WITT, CHAIR: The committee will come to order. After we left last night I was able to get in touch with Barbara Campbell. She is here this morning to present some testimony to this committee. I have also gotten in touch with Rich Callahan who is the prosecutor in this case and he is also here to present testimony. I think we will proceed with those two and then we will move forward from there. That is the way that I would like to proceed at this point. Is there any preliminary matter that anybody wants to take up before we call Barbara Campbell?

REP. O.L. SHELTON: Gary, I would like to ask, I guess a question dealing with the something to deal with the organizational matter of this committee. Are we planning to have future meetings? Are we going to set dates so that we will know where we are scheduled to be and when we are scheduled to be?

WITT: It depends on what happens after we hear the testimony today. If it is the determination of this committee after the testimony that we feel that there is good cause to believe an impeachable offense has occurred and we issue articles of impeachment to the floor, we may determine that there is not a need to set future meetings at this point. If we determine this morning that we cannot make that determination and that we need to proceed with additional hearings, then we will set those hearing dates and we will talk this morning later

about if there are any additional witnesses any member of the committee wants to have present or if there are any additional documents that anybody wants, we will start preparing those subpoenas for documents and people. At this point, I can't answer your questions any better than that. At this time, Barbara Campbell, will you come forward? Barbara will you raise your right hand? Do you solemnly swear or affirm that the testimony that you shall give in the hearing now pending before this committee shall be the truth, the whole truth and nothing but the truth, so help you God?

BARBARA CAMPBELL: I do.

WITT: Will you state your name for the committee?

CAMPBELL: Yes, my name is Barbara Campbell.

WITT: And the gentleman sitting beside you, would you state your name also for the record.

DAVID EDWARDS: My name is David Edwards and I'm the lawyer for Barbara Campbell.

WITT: Okay, and you are here willing to testify this morning and you have asked that your attorney be present throughout that testimony? Is that correct?

CAMPBELL: Absolutely, Representative Witt, and I am very willing to cooperate this morning.

WITT: We appreciate you

coming up on such short notice and getting up in the middle of the night to get here. I guess the initial nature of this meeting is to discuss the filing of Tim Moriarty. Is the date of March 21st, I believe the first time that anything came up with that?

CAMPBELL: Yes, sir.

WITT: And can you tell us what happened on March 21st?

CAMPBELL: Briefly on March 21st after 5:00 in the evening, approximately around 5:30, I walked back to Secretary Moriarty's office and in her office with her was her son, Tim Moriarty. And at some point, Judi Moriarty asked me if I could help her son Tim fill out his paper work for his candidacy for State Representative 56th District. I said, I would be glad to help him. I did remind her that it was after 5:00 and we couldn't do a filing. She said, "No, no, that is not what I want. He has not decided if he is going to file for that office. I just want you to help him get the paper work out of the way." And I agreed to do that, I agreed to help him with that. Tim Moriarty and I went forward into the outer office. He and I sat down at Nadine Barrow's desk, the very front desk there in the office. And while he was filling out his candidate work sheet form, very simple form, very basic information that every candidate had to fill out, he handed me \$50 cash and I then wrote out a receipt for that \$50 filing fee for the Democrat Party. After he finished filling his work sheet out, I handed him a copy of

the receipt for his filing fee. He thanked me. I told him we would hold the paper work and I placed the filing fee, the \$50, the receipt, and his work sheet that he filled out, placed that together with a paper clip and put it in a file drawer there in Nadine Barrow's desk. Later that evening in discussions with Secretary Moriarty, it was understood she knew his paper work had been taken care of and that it was being held for him and that it would be there until she or he notified us that he was ready to file for office.

WITT: Did you do any entry into the computer at that point of his filing?

CAMPBELL: Absolutely none, the computers were shut down. There was no reason to do any computer entry, because the paper work that was completed is something that is filled out by hand by the candidate. The receipts are filled out by hand and the only reason that you would ever even turn the computer on or do any kind of data entry would be if a Declaration of Candidacy form was being generated. And because he wasn't filing, the computer wasn't even turned on.

WITT: Now we had a document here, yesterday that showed a Declaration of Candidacy signed by Tim Moriarty? Are you familiar with that document?

CAMPBELL: If we are talking about the document that has his signature, but not mine,

WITT: That is correct.

CAMPBELL: Okay, that I had never seen that document until, I believe, it was the first couple of weeks of July, something like

that, that Richard Lee of the Cole County Prosecutor's Office called me in and showed me that document and told me that Mr. Moriarty had produced that document, did I know anything about it? That was the first time I had ever seen it. I have not seen it since.

WITT: You did not produce that document or any document similar to that at the time on the 21st when Tim Moriarty was in the office?

CAMPBELL: That is correct; no document was produced on the 21st.

WITT: Except the hand written document and receipt.

CAMPBELL: Exactly, and the receipt was hand written by me and the work sheet was filled out by hand by Mr. Moriarty.

WITT: Okay. Did anything else happen on the 21st that is relevant to his filing, that you can recall.

CAMPBELL: I don't think so.

WITT: Okay, when was the next time that you had any dealing with the filing of Tim Moriarty?

CAMPBELL: The next date would be March 29th, which was the final day for filing. That morning Nadine Barrows had pulled the documents that were being held for Tim Moriarty out of her desk and asked me a couple of times that morning if Secretary Moriarty had decided or had said anything about Tim's decision to file. I said I didn't know, I would try to find out. Late that morning, some time between 11:00 and 12:00, and I had a conversation with Judi Moriarty regarding Tim's

decision. I asked her if Tim had decided to file, if he was coming to Jefferson City. Ms. Moriarty said to me, "Tim is filing for office today, but Tim will not be in Jefferson City, he is not coming to the office." She said "I want him filled for office. I need you, Barbara, to find a time when there are very few people in the office, no other candidates filing, when it's quiet, very few staff and I need you to file him for office." And I agreed to do that.

WITT: And did you go ahead and do that?

CAMPBELL: Yes, sir.

WITT: And at what time did you file him and how did you go about doing that?

CAMPBELL: The official time that he was filed was at 1:19 p.m. that afternoon. It was quiet in the office at that time, there were no other candidates there. Essentially, what happened, it was about 1:00, 1:15, Nadine Barrows and I discussed, I told Nadine what the Secretary had instructed me to do. She handed me, Nadine Barrows handed me, Tim Moriarty's work sheet that he filled out. And as standard procedure every work sheet that a candidate filled out was then time stamped with a rather ancient looking time clock that we used there in the Secretary of State's office for the filing. The official time then was stamped on that document. At that point, I handed the document with the time stamped on it to Nadine Barrows and her computer was on. We had been filing candidates that morning. She went ahead and entered that information from the work sheet, again, standard procedure, onto the computer screen. It's very

simple, takes, maybe, two or three minutes. Then she pressed the button that had the printer produce the Declaration of Candidacy form. That Declaration of Candidacy form did have March 29th date on it, with 1:19 p.m. I picked it up off the computer, handed it to Nadine, I did not sign it, she did not sign it. She took that Declaration of Candidacy form along with the timed in work sheet that Mr. Moriarty had filled out and the receipt form. I remember seeing that, I don't recall if the cash was there or not. She then paper clipped that together and put it in her filing drawer where the other finished filings for the day were kept.

WITT: Now during this entire process of filing there is an unofficial filing list outside the Secretary of State's office. Did Tim Moriarty's name appear on that anytime between the 21st and the 29th that you are aware of?

CAMPBELL: No, sir, and it wouldn't have. I did not put his information or file him on the computer. The computer generates that list that updated list and it was generated after 5:00 o'clock everyday, a new list was printed and then it was posted out on the board. There were also numerous copies made for members of the media, any State Representatives, State Senators, any officials that wanted to come and get a copy, there were always copies available to any member of the public. And again those were posted out on the board, but his name did not appear and would not have appeared, until the 29th.

WITT: Okay, now if the document we had here

yesterday, that had Tim Moriarty's signature on it, only his not yours, that document, if that had been entered into the computer on the 21st, even though there was no date on it, if the date had been put in, would it have appeared on that official list?

CAMPBELL: My understanding of that system was that if a candidate was filed there was never any time when a candidate was filed that his or her name did not appear on that list the next day or after 5:00 when Nadine ran the list. So absolutely, if it had been entered it would have appeared on the list.

WITT: Was the Secretary of State given copies of this list each day or did she review that at all?

CAMPBELL: I don't know if she personally reviewed it. She was given a copy. There was always a copy available to her, there was a copy available to every member of the Capitol Staff, the Elections Division got numerous copies, yes, I'm sure she had a copy of it everyday.

WITT: Let me ask you one other question about the Declaration of Candidacy. I know I have filed for office a couple of times now. Every time I have filed I have received the receipt from my filing fee, but I have never received a copy of the Declaration of Candidacy. Is it standard procedure to give that to every candidate that files?

CAMPBELL: No, it wasn't. My understanding and I assume the understanding of the other two staffers that assisted in the filing, was that if a candidate requested a copy, then out of

courtesy we would make a copy of that document for them. But, no it was not done, it was not part of standard procedure. A copy was not made of every candidate filing form.

WITT: Okay, you're saying that, that document was not prepared by you on the 21st and so it would not have been presented by you to Tim Moriarty at that time.

CAMPBELL: That's correct. I don't know how to make it more clear than, I did not produce a Declaration of Candidacy form on the 21st. Absolutely did not do that. The other thing I could say about that form, is that, again my understanding of that computer system, in order to get a form that has no date and no time on it, the system had to be manipulated in some way. I have never seen that on - we filed what, over 500 candidates - I had never seen that on any other form.

WITT: If we wanted to produce a document like that today, could we go to the computer in the Secretary of State's office and produce that document as it appeared?

CAMPBELL: Representative Witt, I'm not sure, because I haven't been in that office since June.

WITT: Okay, but the computer as it was when you were there.

CAMPBELL: Absolutely, it could have - you could produce numerous copies of something like that, there is no doubt about it. With anyone's name, with anyone's address, with any party. As a matter of fact, even before the filing process began on the 21st we practiced with it.

Fictitious names, fictitious dates, that type of thing.

WITT: Okay, is there anything else on the 29th that we have not covered?

CAMPBELL: The only thing that occurred on the 29th, and I don't know if it is relevant, is that later on that afternoon, Ms. Moriarty asked me if it had been taken care of, Tim's filing, and I said yes it had.

WITT: When was the next thing relating to Tim's filing that you became aware of?

CAMPBELL: The next time I knew anything about it at all was, to my best recollection, late, very late April early May. I don't remember the day, I remember it was the afternoon. I was called back to Secretary Moriarty's office and when I entered her office, Jim Kolb, her Executive Deputy, was present in the room, to the side of her desk. And when I walked back into the room, I could sense that she was upset, she told me to close the door. I closed the door. Secretary Moriarty had in her hand a number of documents. And again, as I said, she seemed agitated and she said to me that she was attempting to file an ethics report for her son, Tim, and she said and she told me at the time, she said, "I had Nadine call over to the Elections Division and have them fax to me Tim's Declaration form, but," she said, "Barb, why doesn't it have his signature on it and why doesn't it have your signature on it?" She said, "I needed his signature because I wanted to copy it onto his Ethics Report, I need to file that report today." And I said to Secretary Moriarty, "Judi, if you'll please remember, Tim was not present on the 29th

when that form was produced, so he wasn't here to sign it." She said, "I know that, I know he wasn't here, but," she said "he has been in Jeff City numerous times since that," she said, "why didn't you get his signature on this form." And I told her that I didn't know it was my responsibility to do that. At that point, she said, "Well, why isn't your signature on it?" And I said again to her, "It was my understanding that when a form or any candidate paperwork went over to the Elections Division, that any discrepancy, any problem, any mistake on any of these forms was to be" - these forms were scrutinized I understood by the Elections Division staff and that if there was any problems that they would either correct them or find out or do whatever it took to make it right. And I told her that. I said I just assumed when it went over to Elections if there was a problem with it they would catch it and let us know. At that point, she said, "Well I need for you to go over to the Elections Division and sign this form." At that point, Mr. Kolb entered the conversation and he said, "You need, you have to go over and sign that form now, I want you to do it today." I looked at Secretary Moriarty, she said, "Yes, you need to do it today." I said, "All right." She said, "Now when you go to the Elections Division, I only want you to speak to either Joe Carroll or Gene Wiseman." Joe Carroll is Deputy Secretary for Elections. Gene Wiseman is Director of Elections. She said, "I want you only to speak to those two individuals." She said, "I don't want you to tell anybody about this." She said, "too many people know about it already. But I want you to do it now." And I said, "I will." And she

said, "Now when you get back from over at Elections, I want you to come back and tell me that you have taken care of it." I said I would. So I went in to my desk got my car keys. I stopped at Nadine Barrows' desk. Her desk again is in the very front of the office. I told her I would be back in a few minutes. I went over to the Elections Division, which is on the 3rd floor of the State Information Center. When I entered that suite of offices, Gene Wiseman has a glassed office, he saw me enter. I saw him stand up from his desk and he met me in the hallway, motioned me into a room, essentially a storage room across from Joe Carroll's office. I said to Gene, "I understand that you have something here that I need to sign." And he said, "yes", he said, and he reached up and he pulled out Tim Moriarty's Declaration of Candidacy form. Now this is the one that was generated, printed on the 29th at 1:19 p.m. Mr. Moriarty's signature was not on it, my signature was not on it. He placed it in front of me, and I signed my name to the bottom of that form. Mr. Wiseman said while I was doing that, "I don't understand what the big deal is. I don't understand why Judi is so upset about this." He said "These are internal documents, they don't mean anything." He said, "I just don't know what the big deal is", and at that point, I had signed it I handed it to Gene and I said, "All I know is I'm doing what I was told to do." At that point I left Elections, I drove back to the Capitol. Immediately upon arriving at the Capitol I went back to Secretary Moriarty's office, her door was closed. I opened it, I put my head in. She and Mr. Kolb were still there and I said to her that I had signed the form

and it was taken care of and she thanked me.

WITT: When was the next thing that you became aware of in regard to Tim Moriarty's filing?

CAMPBELL: The next thing that occurred of significance was on June 14th. Following Charles Campbell, my husband's, resignation with the Secretary of State's office, we met with Mr. Edwards, our attorney. And, while Mr. Edwards and I were discussing some harassment problems that I had been having with Mr. Kolb, we got into the basic general office problems, atmosphere, things that had been going on, that type of thing and really in passing I mentioned to Mr. Edwards the circumstances surrounding Mr. Moriarty's filing and the details of it. At the time I told him I thought it just didn't seem right. It seemed improper. And after I explained to Mr. Edwards, as my attorney, the details of that filing and circumstances, he informed me, at that point, that in his opinion, that some crime had possibly been committed. He wasn't sure of election laws but he knew that it just didn't sound right. That it could have possibly been some kind of a criminal offense. I obviously was involved in it. At that point, I agreed with him. I was shocked to find out that essentially I had been ordered by the Secretary of State to, in my attorney's opinion, do something that was illegal. At that point, my attorney took steps to notify the Attorney General's Office, Mr. Callahan, the Cole County Prosecutor, and then also the officials in the Election Division and the Chief Counsel, Mr. Sparks, regarding, essentially, maintaining those records that did exist.

WITT: Is there anyone else that has any questions of Ms. Campbell? Representative Richardson.

REP. MARK RICHARDSON: Thank you. Ms. Campbell, when did you first start working in the Secretary of State's Office?

CAMPBELL: Sir, my first day of work was October 27, 1993.

RICHARDSON: And what type of orientation or training did you go through when you first came here?

CAMPBELL: Very little.

RICHARDSON: Were you working, obviously at that point in time, filing wasn't open and this function wasn't being performed at the Secretary of State's office, so at that time you would not have been trained or oriented on that system. Were you in fact, at some later time trained on it?

CAMPBELL: Most of the training on the filing came from Mr. Hal Hebert who was a computer manager, data manager for the Secretary of State's office. I understand that Mr. Hebert had written the program for the filing and we had extensive training on the workings of the computer system, yes. Had practice runs, that type of thing. The training, though, on the filing itself, the procedural, the procedures, process, in all honesty, and again it was part of maybe even my responsibility that maybe not enough was said or not enough was done, but I find when I look back that it was lacking in terms of procedure. We were told, yes, that it begins at 8:00 in the morning and closes at 5:00 at night. We were told that a

candidate had to be present and that we had to get some identification if we did not know them personally, that type of thing. I remember at least on two occasions, Mr. Wiseman, Director of Elections, saying these documents were internal documents, that the Declaration of Candidacy forms, for instance, were internal to the Secretary of State's office. They were for their records. Again, that goes along with the idea that if a candidate requested a copy of this Declaration, we would do that as a courtesy, but it was not something necessary.

RICHARDSON: Let me back up just a little bit on that. The training on the use of the computer was primary by Hal Hebert, but you did receive some training or instruction from Mr. Wiseman, regarding the law or the procedure that was going to be followed.

CAMPBELL: I don't know what part of the law he referred to - I don't think he ever referred to any of the law or statutes or that type of thing. He did talk about the procedures and steps.

RICHARDSON: When and where and how did this training take place with Mr. Wiseman?

CAMPBELL: I believe, I remember one formal training session, so to speak, there were only three of us in the office that were trained. Juli Rodenburg, Nadine Barrows and myself. I remember one day a couple of weeks before the filing started, Mr. Wiseman came over about 4:00 o'clock one afternoon. I believe Mr. Hebert was also there, and it was a time when we were just practicing to make sure that we were getting the information into the computer

correctly.

RICHARDSON: Was Ms. Moriarty there at that time?

CAMPBELL: No.

RICHARDSON: Just Wiseman, Hebert and the three of you that were actually going to do the processing.

CAMPBELL: That's correct and maybe some other staffers. But I don't remember Ms. Moriarty being there.

RICHARDSON: How long did that meeting last?

CAMPBELL: Thirty minutes

RICHARDSON: Did Mr. Wiseman brief you on what the law was with regard to filing?

CAMPBELL: No, sir.

RICHARDSON: What requirements there were, the significance of the document?

CAMPBELL: Absolutely none.

RICHARDSON: Did he ever do that for you or for anybody else?

CAMPBELL: To my knowledge, we received nothing in writing and at least a month, three weeks prior to that filing, again because I had had no experience with the filing of candidates, I had had no experience even as a notary public, anything like that. I had asked Mr. Wiseman a number of times, first of all for some training, and I was doing it on behalf of the other two individuals there in the office. Asked also for some written documentation. We never received anything like that, to my knowledge. I know I was never instructed on the law or

the legal procedures and to my knowledge the other two staff members were not either.

RICHARDSON: To your knowledge was Secretary Moriarty ever briefed or instructed on what the technical aspects of the law were with regard to elections filings?

CAMPBELL: Sir, I would have no idea.

RICHARDSON: So you never received the information that you asked for and you never really received any orientation as to what the implications were or the requirements were, technical requirements for filing?

CAMPBELL: The only thing I remember being emphasized was this time, the official time, was awfully important, and I remember that especially on the first day because of people standing in line.

RICHARDSON: That was primarily because there was jockeying to see who was going to be first or second or last on ballot. Is that correct?

CAMPBELL: That is correct.

RICHARDSON: When you filed Tim, as you said on the 29th, it didn't occur to you at that point that you might be violating the law?

CAMPBELL: No, sir. (End of Tape #11)

RICHARDSON: And I assumed since you thought it wasn't important, that's why you didn't say anything to Ms. Moriarty at that time about shouldn't we get Tim's signature or shouldn't Tim be here or shouldn't I sign this or?

CAMPBELL: Well, that morning when she told me he wasn't going to be present. Now we had been instructed that the candidate had to be present, they couldn't send someone in their place and we had to essentially identify the person that we didn't know personally. So we had been instructed the person had to be present. I was not told that was part of the law by Mr. Wiseman, but I understood that they had to be present. When Ms. Moriarty told me that Tim Moriarty was not going to be present on the 29th, but that he was to be filed, I recognized at that point that there had to be something that wasn't right there. Because it was in conflict with what Mr. Wiseman had said. But she was the Secretary of State and she was again in all of the literature we produced, the letters that we sent out, Secretary Moriarty was referred to as the Chief Elections Officer and she was my superior, she was my boss and when she told me to do it, I did it.

RICHARDSON: Did you question it?

CAMPBELL: To her? Absolutely not, she was the Secretary of State.

RICHARDSON: If she told you to put a gun to somebody's head, would you have done that without question?

CAMPBELL: No, sir.

RICHARDSON: So the question I have for you is did you think you were committing a crime at that point?

CAMPBELL: No, sir.

RICHARDSON: Do you think you are committing a crime now,

at this point?

CAMPBELL: I know that the law, I have been indicted on the same charges as Mrs. Moriarty was indicted on, so obviously a Grand Jury thought that there was something wrong, legally, with what I did.

RICHARDSON: Do you think there was something wrong with what you did?

CAMPBELL: You know I believe that, I believe in this criminal justice system, that is why I sat on a wooden stand and I testified to the details of this not only to a Grand Jury but to a jury and to the same Judge under which my case is pending. If I did something wrong, if committed a crime, then I am willing to take responsibility for that.

RICHARDSON: But if you then committed a crime, it was not intentional?

CAMPBELL: I was following the orders of my superior.

RICHARDSON: When you were asked by Mrs. Moriarty to go over to sign those documents on late May, whenever, early May, late April, whenever it was, I think you said earlier you really didn't understand what the big deal was, because you assumed that if there had been a problem it would have been caught by people over in Archives, is that right?

CAMPBELL: In the Elections Division. Every day someone from the Elections Division came over to the Capitol office and picked up all of the filings after 5:00 o'clock that had been processed that day. Our understanding there in the

Capitol office was that every one of those documents, whether it be the candidate work sheet, the Declaration of Candidacy form, or even the receipt, was going to be scrutinized for things like, see we didn't know when we were filing a candidate, if they put down there where they were registered to vote, we had no proof that that was true, but that was the Elections Division's responsibilities to scrutinize that. To make sure that a candidate's name for instance, if you look at the Declaration of Candidacy sheet, you see that there is a part at the top where the candidate's names is but then there is a grey shaded area and that's where the ballot name is. It was their responsibility also, we understood, to make sure that those ballot names were accurate and they represented what was legally able to be put on a ballot. So yes, I understood that everyone of those documents was scrutinized on a daily basis.

RICHARDSON: Then wouldn't it have seemed logical to you that if you sent one over without any signatures on it that that would be scrutinized and caught.

CAMPBELL: Yes, absolutely.

RICHARDSON: Were you surprised or concerned when that didn't happen with this particular one?

CAMPBELL: No, and I'll tell you why. Tim Moriarty was Secretary of State's Judith Moriarty's son and that is why I assumed that when it went over there that it was either going to be taken care of or it would be - I don't know, I had no idea how the Elections Division was going to react to that. I did what I was told to do and I did that. But

beyond that it became the Elections Division's responsibility.

RICHARDSON: Do you know of any other cases of where they scrutinized filings and sent them back for corrections or contacted you for more information?

CAMPBELL: I was never contacted by the Elections Division on any filing that I did for any corrections, mistakes or as you say more information, never contacted.

RICHARDSON: We were told last night that at least two people on this committee who filed as candidates filed without receiving your signature verifying their filing. Would that surprise you?

CAMPBELL: No, and it doesn't surprise me and I'll tell you why. Again on the very first day of filing Gene Wiseman and Joe Carroll were present. Again Joe Carroll is Deputy Secretary of Elections and Gene Wiseman is Director of Elections. We were told on the first day that all of the candidates' Declaration Forms were going to be signed by those election officials. After that within the next 30 days, because there was going to be no elections official present, I was told, it was my understanding that we did not have to sign. I did not have to sign those forms, unless a candidate specifically asked me to sign one of those. In many cases I did not sign the form, the Declaration form of the candidate, because that was my understanding and yes, many of those went over, I don't know how many, but I'm sure a lot went over if I did them because I was told that my signature was not necessary unless a candidate asked for it. Again, I was told

that these were internal documents only. They are not for public scrutiny, that is what I was told by Mr. Wiseman. And so if I sent forms over without my signature, not one time ever was I called ever on any document that I did on the filings. And I did a great number of those filings.

RICHARDSON: Are you a notary?

CAMPBELL: No, sir. Never have been.

RICHARDSON: So you are saying just as a matter of routine, you might sign them or you might not sign them depending on what mood you were in or whether someone asked you to.

CAMPBELL: Well, it had nothing to do with mood, sir. Honestly, it didn't. It had to do with what I was told and I was told it was not necessary to sign those forms unless a candidate asked me to do so.

RICHARDSON: So if there was another document that was somehow recovered, found or copy of it later that didn't bear your signature that wouldn't be unusual at all for there to be a filing that didn't have your signature on it?

CAMPBELL: If we are referring to that document that Timothy J. Tim Moriarty, signed with no date and no time on it, I never saw that document. I did not produce it.

RICHARDSON: And you did not put anything in the computer on the 21st?

CAMPBELL: I did not. The computers weren't even on.

RICHARDSON: And there was other sworn testimony given before the Grand Jury and the trial and given to us that indicated that you did in fact do that and that you did in fact tell a coworker that it would have to be deleted back out of the computer. None of that happened?

CAMPBELL: No, sir. With all due respect, those individuals that have said that I did that that night have their reasons for saying that.

RICHARDSON: Did you have your reasons for saying the things you said?

CAMPBELL: I told the truth and I have told the truth regarding this in every situation. I have met with the Cole County Prosecutor's Office, with the Attorney General's Office, with the FBI, with the Missouri Highway Patrol, with the Grand Jury of Cole County and also with the Circuit Court in Ms. Moriarty's trial and I have told the truth and the details of this incident voluntarily again at great personal expense.

RICHARDSON: Did you tell Judi Moriarty or did your husband tell Judi Moriarty that if she sided with Kolb that you all were going to take her down?

CAMPBELL: Absolutely not.

RICHARDSON: Did you ever send her any correspondence that told her she better clean up her act or you were gonna blow the whistle on her?

CAMPBELL: On the 14th of June, following a very disturbing and just completely inappropriate action on Secretary of State Moriarty's

part on the 13th.

RICHARDSON: Did that have to do with filings or elections?

CAMPBELL: No, sir.

RICHARDSON: This action or conduct.

CAMPBELL: I guess I don't understand.

RICHARDSON: On the 13th you said that there was a situation where she did some things that were unwarranted or irrational or something. Did that involve elections?

CAMPBELL: As far as I know it probably didn't.

RICHARDSON: Okay. Go ahead

CAMPBELL: On the 14th of June, and the only thing I can describe it as, as great disappointment, great anger and upset, I wrote Secretary Moriarty a very brief memo, because I had asked her numerous times and mostly in writing, because I could never reach her to talk to her about the incident that had occurred and the demotion and my repositioning into a job that didn't even exist, and in the memo I said to her because I had not even been given the courtesy of a telephone call regarding her actions, and the actions of her staff, it was my feeling that if she I don't know if I said she in the memo, I don't have it in front of me, but I mentioned if Mr. Kolb and Mr. Carroll said negative things or damaging or tried to come forward with damaging things about me or my husband, that I would be forced, I think I said, to reveal the improper filing of her son, Tim.

Yes, sir, I did do that, I did give her that.

RICHARDSON: That sounds a little bit like blackmail doesn't it? "If this happens either publicly or informally I will be forced to reveal the improper details of your son for candidacy of elective office." Now the things that you were concerned or disappointed or angry with her about in regard to the conduct of her office involving you had nothing to do with filings or elections or anything else did it? It had to deal with personnel struggle, power struggle between you and Mr. Kolb.

CAMPBELL: No.
Representative Richardson,
please don't....

RICHARDSON: Well, I'm just trying to understand the situation here. You just implied that, in fact you pretty well stated, that Nadine Barrows was lying because she had some ulterior motive, but it seems to me like that it's difficult for us to believe that in view of the fact that we have a written document from you which appears very much like a blackmail document that shows that you would have even greater motive to say and do the things you've said and done so. I'm trying to get to the bottom of this and trying to understand what your motivation was for coming forward with this revelation in June after it had been around for some time, at least since March 29th or March the 21st or whatever, without you saying anything about it or uncovering it and then suddenly when personnel problems come up and when you are transferred to a different job, suddenly the blackmail letter appears and

then you go public with some kind of impropriety that you stated that you did not think at any point was an impropriety, in fact you were told by election officials, was not, during the entire period of time that you were there.

CAMPBELL: And your question is?

RICHARDSON: My questions is just exactly why was it that on the 14th of June you thought there was some kind of a crime that had been committed by Judi Moriarty that she should be worried about when up until that point you had never considered a crime by anybody or even an impropriety by anybody.

CAMPBELL: Sir, I knew that what had happened was not proper. I did not know until after I had written that memo that what had happened could possibly be a crime.

RICHARDSON: When did you first know that it was improper?

CAMPBELL: The day she asked me to do it.

RICHARDSON: And to whom did you complain or to whom did you raise the question or to whom did you go to get clarification on the 29th of March?

CAMPBELL: I took an order from the Secretary of State.

RICHARDSON: Now that is not my question.

CAMPBELL: I did not get it clarified, no, sir.

RICHARDSON: Did you ask her to clarify it for you?

CAMPBELL: No, she made it perfectly clear what she wanted done.

RICHARDSON: Did you challenge her on that? Or did you raise the question that this was improper?

CAMPBELL: No, sir.

RICHARDSON: Did you raise it with Joe Carroll?

CAMPBELL: No, sir.

RICHARDSON: Did you raise it with Gene Wiseman?

CAMPBELL: No, sir.

RICHARDSON: Did you raise with legal counsel for the Secretary of State's Office.

CAMPBELL: No, sir.

RICHARDSON: Did you talk to your attorney about it?

CAMPBELL: No, sir.

RICHARDSON: Did you talk to anybody about it besides your husband?

CAMPBELL: I spoke only to the Secretary of State following her order and I told Nadine Barrows, a coworker, about what Secretary Moriarty had told me to do.

RICHARDSON: Well, if you thought it was improper on that day, then why didn't you raise the question or seek clarification or inquiry of someone about it?

CAMPBELL: All I can say at this point is I wish I had. I wish that when Secretary Moriarty had ordered me to do something that I thought was improper I wish that day that I had walked

out of the door and quit.

RICHARDSON: At some point in time later, though, you did make inquiries about it, apparently to your attorney at least.

EDWARDS: She did not make inquiries to me. I made the inquiries to her.

RICHARDSON: At some point in time it became important enough that you sent this letter to Mrs. Moriarty. At least by June 14th you realized that probably something should be done about it. Is that right?

CAMPBELL: Sir, I realized it was improper.

RICHARDSON: Do you have a sexual harassment charge pending right now against James Kolb?

CAMPBELL: No, sir, I do not.

RICHARDSON: Did you file one at some point in the past?

CAMPBELL: No, sir.

RICHARDSON: You sent a letter or did you send a letter or cause a letter to be sent accusing Mr. Kolb of sexual harassment?

CAMPBELL: Mr. Kolb was hand delivered a confidential personally addressed letter regarding a very serious and damaging and upsetting situation that had been going on for months. And my attorney, Mr. Edwards, had prepared this letter. Essentially it said please stop it, if it stops it won't go any farther, let it go, leave it alone, leave her alone, and that's and I'm sure you have a copy of the letter I don't need to rehash what it said. That letter was

delivered by courier from my attorney's office to the State Information Center. The courier had been informed by telephone prior to taking that letter that Mr. Kolb was present in the office by his secretary, Leigh Ann Toalson. When the courier got there, Ms. Toalson intercepted that letter and said that she would give it to Mr. Kolb, that he was there. Now Mr. Kolb was not there, he was at the lake that day and so Ms. Toalson misrepresented the fact the Mr. Kolb was present. She obtained the letter, my understanding is that Mr. Kolb wasn't even there that day, again he was at the lake and this was a Friday and she, I don't know whether she opened it or Mr. Sparks the legal counsel opened it, but it was never intended for anyone other than Mr. Kolb. It was discussed, my attorney discussed sending it to his home, but he and I, my attorney and I decided that was not appropriate. That was not the place to send something like this. And it was in my opinion, the most professional, simplest way to deal with it.

RICHARDSON: You were still working at that time?

CAMPBELL: Yes, sir.

RICHARDSON: Were you still working directly under his supervision or had you been transferred?

CAMPBELL: This was on June 10th. At that point I was still in Secretary Moriarty's Capitol Office under her direction. When I was transferred, I was transferred to a division under Mr. Kolb's direction.

RICHARDSON: Were there procedures in the policy manual

regarding how to deal with sexual harassment problems?

CAMPBELL: I don't know, sir. I'm not familiar with those procedures. If there are.

RICHARDSON: If you, assuming that you were familiar if there were any, that you obviously didn't follow any of them.

CAMPBELL: I don't even know if they exist.

RICHARDSON: Were you still working directly for Mrs. Moriarty, here in the Capitol on the 14th of June?

CAMPBELL: On the 13th of June, I was handed a letter by Randy Sparks, Chief Legal Counsel, that said as of immediately, he was going to supervise my cleaning my desk out and I was to leave the Capitol Office and to report the next morning, June 14th, to the Archives Division, where I was to report to Dr. Winn. I later found out from Dr. Winn that no job, no position existed there, so on the 14th I don't know what my status was, I don't know if I was under Mr. Kolb's direction or Judi Moriarty's direction. It's anybody's guess.

RICHARDSON: And Mr. Kolb was going to supervise the cleaning out of your desk?

CAMPBELL: No, Mr. Sparks.

RICHARDSON: Mr. Sparks was going to supervise that.

CAMPBELL: Yes.

RICHARDSON: Why was that necessary?

CAMPBELL: I don't have any

idea. Heavy handed tactics, if you want to know my opinion. I don't know.

RICHARDSON: Was Mrs. Moriarty there?

CAMPBELL: No.

RICHARDSON: Do you know whether or not that was something that was ordered by her or whether she was even aware of it as far as the cleaning out of your desk part of it?

CAMPBELL: I was told by Mr. Sparks and the letter that he handed me had Judi Moriarty's name at the bottom. He said he was acting as her agent and he said she knew all about it, absolutely.

RICHARDSON: Did you ever talk to Judi about it?

CAMPBELL: No, despite many requests prior to the 14th to discuss the issue after June 10th, no I was not given the courtesy.

RICHARDSON: Were you told that this was a demotion or just a lateral move?

CAMPBELL: There was no job. Of course, it was a demotion. I was being moved from the Capitol Office as the administrative aide to the Secretary of State to nothing, there wasn't even a desk. So I don't know what word was used but, yes, the implication was of course, it was a demotion.

RICHARDSON: I don't have anything else right now.

WITT: Further questions? Representative Wible

REP. CONNIE WIBLE: In

March of 94, what time did you ordinarily leave the office?

CAMPBELL: In March of 94. Ordinarily, I did not leave the office before 6:30 in the evening. It was especially during the filing and when session was in, we were always there past 6:30 - 7:00 sometimes late into the evening.

WIBLE: And what time did Judi Moriarty normally leave?

CAMPBELL: On the days that she was present in the office, again it depended, there were evenings where she was there and I was usually there until she left. At times 7:30 - 8:00 - 8:30 as late as 9:00 sometimes. This following her arrival, usually not before noon.

WIBLE: On the 21st after you helped Tim fill out the papers, you stated that, you had discussed then with Judi later that those papers would be held until one or the other of them, either Judi or Tim, notified you.

CAMPBELL: That's correct.

WIBLE: And what did you expect them to notify you of?

CAMPBELL: It was my understanding, Representative Wible, that Tim had not decided if he was going to file or not and that was the 21st and the last day was the 29th and he had a number of days. I don't know what the hang up was. I don't know what was keeping him from the decision, but my expectation was at some point Secretary Moriarty or Tim would either Tim would come in or Judi would tell us that Tim was coming in, that type of thing, and that he would have decided then to file. So that was my

expectation.

WIBLE: So as you were helping Tim fill out the papers, did he say anything to you at all about what he was doing or why he was doing that at that time.

CAMPBELL: No ma'am. He and I did not really have much in the way of a discussion. Tim was filling out his work sheet, again it just takes a few minutes. We were probably at that desk a total of 3-4-5 minutes at the most. There was really very little discussion about anything other than his filling out the work sheet. I do remember that there was some confusion on his part about his voter registration card and I helped him with that a little bit, but really there was no discussion.

WIBLE: Confusion in what way?

CAMPBELL: He had a brand new voter registration card and I think he was confused about what, because our form has on it something about a township, it's been a while since I've seen it, a township, a county and two or three other things and I don't think he was familiar with what was a township or the district, that type of thing, so he was just asking if I could help him figure out what he should put on the form for his registration card.

WIBLE: And when he completed that, the two of you together completed that, was there any comment by him about, what would be done with it or any questions by him?

CAMPBELL: No, again he had filled that form out and I did give him the receipt for his \$50 filing fee and he was going to hold onto that and it was all, I just placed

it all together, I just told him we would hold it and when he decided and he said that was fine. So there really wasn't any discussion.

WIBLE: The way that you knew that he had not decided yet, you got that information from?

CAMPBELL: Originally from Ms. Moriarty, because when she said to me that Tim wanted to fill his paper work out and I had said to her, well that's great, I'll be glad to help him, but it's after 5:00 and we can't file him. And she said, "No, no, I don't want him to file, he is not going to file, because he hasn't decided. I just want his paperwork out of the way." That's where I first learned, first of all, that he was even considering filing and, secondly, that she wanted me to help him with his paperwork.

WIBLE: After the paperwork was filled out, did you tell her what you had done with it or where you were keeping it?

CAMPBELL: No, I think later that evening all I said to her is that it was completed, that it had been taken care of, and that it was being held. I don't remember telling her where it was being held.

WIBLE: Did she indicate to you at that time what she wanted you to do with it?

CAMPBELL: Other than just to hold it until he decided, but no, specifically where I should put it or anything like that, no.

WIBLE: Or any indication about what would happen later?

CAMPBELL: No. No.

WIBLE: Did you expect that

this document would ever be generated and filed without a signature?

CAMPBELL: No, I did not. I did not anticipate that at all. I assumed that when he, when Tim Moriarty decided he wanted to file for office, I assumed that he would be there just like everyone else. I do know that, again as Representative Richardson mentioned, there was quite a bit of jockeying at times for a position on the ballot. I know that one of the reasons Ms. Moriarty when she filed for Secretary of State delayed until the last minute was to get her name last on the ballot. It seems to me there was some thought in my mind, that if he decides to file that might be one of the reasons why he would wait to file or may be even to decide so that he could be possibly last on the ballot. I did not know the situation of the 56th District. I don't know how many people have filed or anything.

WIBLE: To your recollection has anyone else ever come in to the Secretary of State's Office filled out the paperwork, paid the filing fee and had your office hold the documents until they decided?

CAMPBELL: To my knowledge never.

WIBLE: If that were done, if someone were to come, someone that you had never seen or heard of came in and asked you to help them with the paperwork and go ahead and take the filing fee and hold those documents somewhere until they decided whether or not to file, how would you have handled that?

CAMPBELL: If that had been someone that I didn't know or

really if it had been someone other than the Secretary of State's son, I probably would have called Mr. Wiseman or Mr. Carroll and asked them if that was appropriate to do that.

WIBLE: We heard from Mrs. Moriarty's counsel that there were, my recollection was, there were quite a number of documents, the Declaration of Candidacy documents, that have been generated with no date and time, "no record found" is what I believe it states and then some symbol instead of the time and that those were produced on numerous occasions, but then you said today that you had never seen a form with no date and time?

CAMPBELL: No, ma'am.

WIBLE: Have you looked specifically, gone back through any of the forms to specifically note whether they had date and time?

CAMPBELL: Have I gone through every Declaration of Candidacy form? No.

WIBLE: Not every, but have you gone through any group of them or randomly looked?

CAMPBELL: There were only three of us who filed in excess of 500 candidates, so statistically, maybe I did at least 100 or 150 of those. Never in all of the times and all of those that I generated, that the printer produced and the computer produced, did I ever see something that said, you said "document not found."

WIBLE: "Record not found."

CAMPBELL: "Record not found," I never saw that and the

reason the time always came up is because again it was very important that when that work sheet was completed that it be timed in and we had to physically place the time on that computer screen. Because it was not, we could not depend on the computer's internal clock. We had to enter the time that that old time clock had stamped on that work sheet. So that when you are putting it on the screen the date would come up automatically, you could just hit a button, but then there was a field where you physically had to place the time. (End of tape #12) No, I never saw any thing like that.

WIBLE: You mentioned that when you first started you and some others practised with doing forms with fictitious names. Did you do that during regular hours?

CAMPBELL: It seems to me that the two or three times we did it it was late in the afternoon, so probably, maybe it went into the evening but it was probably late afternoon, so yes it would have been during regular hours.

WIBLE: So as you filled out those practice forms, did you physically put in a date and time in those.

CAMPBELL: Yes, we didn't, again this is not real complicated. Once you learn how to make sure you fill the fields in on the screen. And all it was the screen was nothing more than asking for the information that the candidate had filled out on the work sheet form. So we did not fill out, we didn't practice filling the work sheet forms out. We would just bring the screen up and, for instance, Mr. Hebert

would just make sure that when we placed a fictitious name into that field that it all came up and yes we would put a, I believe to get the date, you just hit the enter button and it would automatically come up so, I don't remember putting a fictitious date into it and then the time was of course, just made up, because again that field had to be filled out on the computer screen and then you would just finish it up. And then after the fields were all filled out the next procedure was to ask it to print and the computer printer printed a Declaration form.

WIBLE: Did you ever do your practice routine after 5:00 o'clock?

CAMPBELL: Again, it wasn't terribly complicated and once you do it once or twice and Mr. Hebert made sure that it was coming out right, a lot of this was not, the practice was not necessarily to make sure that the three of us knew how to enter it onto the screen, because again that was pretty simple. It was to make sure that the program was working and producing the correct documents. I don't remember ever doing any of that after 5:00 o'clock.

WIBLE: If you had, do know what would have come up for date and time?

CAMPBELL: No, I don't. I don't know. Again, the date would have come up because that automatically goes into the computer. Again I'm not a computer expert, but I know that on the fields all you had to do was hit an enter button and the date always came up.

WIBLE: But was there a time for which the computer was

programmed for each filing day, whatever the normal hours were, 8:30 to 5:00, I assume? Was there a time period set up on the computer somehow so that only those times would be entered and then if anything after that was entered it would come up with a blank or . . . ?

CAMPBELL: No, the program was put into the regular word processors that we used in our daily work and you could turn that computer on at 4:00 in the morning, you could turn it on at 4:00 o'clock at night, you could turn it on at 8:00 o'clock at night. There was no safe guard on it to keep a filing done only between 8:00 in the morning and 5:00 o'clock in the evening. No it could have been done at anytime.

WIBLE: So do you have any explanation for why a form would come out with no date and time?

CAMPBELL: My only explanation is that it was manipulated and someone produced that document in order to make it look that way. Why someone, again I don't know who would produce a document like that with no date and no time on it, I don't know, I don't have any idea, but to get that form to look like that in some way that program had to be manipulated.

WITT: Can I interrupt here just one second? Does the computer actually put the time on or just the date? Isn't the time actually file stamped on?

CAMPBELL: That's correct. We had to physically put the time on because again the time is very important off the form and we could not depend on the computer, the computer's

internal clock, to match the time that was on that form.

WITT: Okay, so the computer just put the date on not the time? I just wanted to make sure that I understood that correctly, 'cause I thought that was the way it was. Go ahead, Representative Wible, I apologize for interrupting.

WIBLE: Since you have worked with that program do you have any idea how it could be manipulated to omit a date?

CAMPBELL: I don't know how anyone would have produced the "record not found" and the time, I don't remember on that document what it looks like. I don't know how anyone could do that. I don't know how to do it. But at anytime that program on any of our computers in that office can be brought up. Morning, night, day, time, anybody could have used it at anytime. How that bit of information was placed in it, I don't know. I know that in the trial, that Mr. Hebert testified, I believe, under questioning by Mr. Callahan, Mr. Callahan asked him if a form like that could be produced in someone's basement. And Mr. Hebert, I believe said, "Yes." It was not a sophisticated system. It was not a, used Word Perfect, it was our printers that were used right there in the office. It was not terribly complicated.

WIBLE: Was there any password that anyone used to get into it?

CAMPBELL: No. As a matter of fact, the passwords were kind of a joke, because the passwords were our names and people knew that. The thing about the Capitol Office is that everyone

had to know how to get onto these computers, because they were word processors and so no, there was no secret code, there was no way to use a password that only I could get on my terminal or only Nadine could get on hers. The only one that was secure and locked away and no one could get into it was Freeda McKee's Macintosh computer back at her desk.

WIBLE: How many terminals were there?

CAMPBELL: Let's see, there were, five terminals were hooked into the system or the network that could have been accessed on to that filing program. Five of them.

WIBLE: And what would prevent someone from getting into that system and altering a document that had previously been filed?

CAMPBELL: There would have been nothing that would have prevented that, nothing. Anyone could have done that at any time.

WIBLE: Just one more question. Do you recall ever witnessing a signature that was not existent at any other time as you witnessed, when you signed the document, witnessing Tim Moriarty's signature that was not there, do you recall ever doing that?

CAMPBELL: You are asking me, did I ever sign a Declaration of Candidacy form that did not have a candidate's signature?

WIBLE: Or in any other way witness someone's signature when their signature was not actually present?

CAMPBELL: No ma'am. That was the only time.

WIBLE: Thank you.

WITT: Representative Gaw.

REP. STEVE GAW: Thank you, Mr. Chair. Ms. Campbell you were hired by the Secretary of State's Office fall of last year, is that right?

CAMPBELL: Yes, sir.

GAW: And at that time what was your relationship with the Secretary of State?

CAMPBELL: What was the relationship? I had met Ms. Moriarty, two or three times, once in an official capacity as County Clerk there in Pettis County and some work there but, two or three other times at just social occasions, the State Fair that type of thing. As you probably know, my husband's family and Ms. Moriarty's family are from Benton County, Missouri, down around Warsaw, and so there were a number of occasions when we would see Secretary Moriarty and her sisters, her family members. I was not as well acquainted with Ms. Moriarty as I was for instance, with her sister, Connie McLaughlin, who has the fee office there in Sedalia, Missouri. So that essentially was the relationship.

GAW: As far as your husband was concerned, how long had he had contact or friendship or whatever with the Secretary of State.

CAMPBELL: I understand that their families knew each other from childhood.

GAW: Did you understand that

the two of them had known one another since that time?

CAMPBELL: Yes.

GAW: As far as you applying for this position, how did that come about?

CAMPBELL: In the summer of 93, Connie McLaughlin had obtained the appointment from the Governor for the fee office in Sedalia. She knew that at the time my husband and I had sold our business and that she thought possibly and offered me a job with her license fee office there in Sedalia, even though we live in Columbia, she offered me a position there in the Sedalia fee office. Asked if I would move to Sedalia and work with her in that fee office. And this happened rather quickly because my understanding was that she had some kind of week long training program that she needed to get to and if I was going to accept the position she wanted me to accept rather quickly so that I could go into this training program with her. At the time I told her it was very nice of her to offer it, but first of all we had, I was still working with the individuals that had purchased our business, that was the summer of 93, and secondly that my husband and I really had no desire to move to Sedalia, Missouri, and pick up and move there.

GAW: Where were you living at that time?

CAMPBELL: In Columbia, so again, as I said, I told her obviously that it was nice of her to ask, but that I wasn't going to be able to do that. Later on that summer, I received a call from Connie McLaughlin and she asked me if I would be interested

in a position in Judi Moriarty's Office. She said it was there in the Capitol Office. Didn't really tell me what the position was, but if I would be interested, I believe she asked me to send Secretary Moriarty a resume. I did so. I did not know what the position was, but I sent a brief letter saying thank you for your interest, here's my resume. I was contacted, I don't remember if Secretary Moriarty, personally called me or if Mr. Kolb called me. But, I was called sometime in late August or early September and asked to come in for an interview. I came in, visited with Ms. Moriarty and Mr. Kolb about a position there in her Capitol Office. I believe it was maybe even the next day, Secretary Moriarty called herself and offered me the position and asked if I would come to work.

GAW: What was that position?

CAMPBELL: The title of that position was Administrative Aide to the Secretary of State. The position, did you want me to describe some of the duties?

GAW: I'm just curious, how many other individuals held that position or that title?

CAMPBELL: I don't know that anyone else held that specific title, but there were other administrative aides in the office. In the discussions and the understanding, between myself and Ms. Moriarty, the title would be Administrative Aide to the Secretary, that I would answer directly to her.

GAW: You started work there in the fall and at some point in time your husband also came to work there, is that correct?

CAMPBELL: Yes, sir.

GAW: How did that come to pass?

CAMPBELL: I believe, and again you would probably have to ask him about the details of it. As you said my husband and Ms. Moriarty have been, have known each other and their families have been very knowledgeable of each other, I don't think they lived very far from each other since childhood, so there was always a constant contact there. I don't know and I was not privy to the discussions that Ms. Moriarty had with my husband regarding the position that she offered him or how many discussions he and Jim Kolb and Secretary Moriarty had. So I'm not sure, I do know that he began work, I believe it was the first or second week of January.

GAW: So in other words, you did not discuss with him that this position was coming open or that there was some position that he might apply for at the Secretary of State's Office?

CAMPBELL: No, sir, absolutely not. There was no position open to my knowledge. There was not in the administrative chart an opening for a Deputy Secretary.

GAW: Is that what position he had when he came on board?

CAMPBELL: That was the title he was given, yes, sir.

GAW: And do you know what the pay was for that position?

CAMPBELL: His pay was I believe \$39,900 or something like that.

GAW: Was that position you say, it was not a position that had been a position prior to his coming on board to the Secretary

of State's Office?

CAMPBELL: From October, from when I started late October, till January, there was no one in any position of Deputy Secretary. To my knowledge there was no position there that was open that needed to be filled.

GAW: Were you aware of how that position came to be created?

CAMPBELL: Again I wasn't privy to the discussions. My understanding was that Ms. Moriarty felt there were some management needs in that office. Not in the Capitol Office, but in the State Information Center with the numerous employees and divisions, that there were some very distinct management needs in that office and they were not being met. And that she knew of my husband's administrative background and that she felt that, and then again, I don't know if there had been a position a long time ago or whenever, but either she created a position for him or filled a position because of that.

GAW: His position that you say was created, how did it rank in the hierarchy with Mr. Kolb?

CAMPBELL: Representative Gaw, I'm not sure and I'll, I'm not hedging, but we had an administrative chart, or there was one that existed. That showed, of course, I believe, Missouri Voters at the top, Secretary Moriarty next, and then branching off under Secretary Moriarty was the Capitol Office Staff, then below that line, and I hope I am describing it accurately, was Mr. Kolb as Executive Deputy Secretary, and then below him were another line that had

Deputy Secretary for Election Services, Joe Carroll, Deputy Secretary for Business Services, Mr. Gillock, then Mr. Kolb's name appeared again for Administrative Services, I believe. So where my husband as Deputy Secretary fit in there I do not know because we never, to my knowledge, received in the Capitol Office an updated administrative chart showing that position.

GAW: Was the relationship between Mr. Kolb and your husband up until May of this year, how would you describe that?

CAMPBELL: In the beginning there was a great effort, I believe, on my husband's part to work with Mr. Kolb. I do believe that in the very beginning that he was, again, my husband, was very excited about the opportunity the position that he felt that he could make a significant contribution, again working with Mr. Kolb under Secretary Moriarty's direction. He did answer, I understand directly to Secretary Moriarty, but I think for the first probably three months that there was a great attempt and maybe by even Mr. Kolb that this work out. That there could be some delineation of duties some understanding of how the needs of that office in terms of management of those 16-18 Divisions would play out. I do know, and I'm sure this is very true on Mr. Kolb's part, on both Charles's part and Mr. Kolb's part that there was a great deal of confusion because Secretary Moriarty refused to give any direction on how she wanted things laid out. We found that to be very true in the Capitol Office. If we can look at that for just a second is just a microcosm

of the problem. There were four-five, five staffers right there in Secretary Moriarty's Capitol Office and there was no delineation of duties. She would ask one of us to do something and turn around and ask another one to do it without telling the first one that the other person was involved. It was in many ways very confusing, very disruptive. We didn't have any written procedures. There were no policies that were followed on activities and responsibilities there in the office. We had no job descriptions.

GAW: Let me interrupt. You say the relationship, it was good or attempted to be by both parties for three months and then did it deteriorate? Would that be an accurate description? Or was there an event that happened that caused it to go sour?

CAMPBELL: No, there wasn't one single event. It was deteriorating, and most of it, Representative Gaw, I believe was because the more my husband was visible and available to staff over in that State Information Center, they confided in him some problems, there were things that were going on that were not appropriate and I think that everyone is familiar with the allegations that my husband made in his letter of resignation. I think that you all are familiar with the investigations that have been ongoing, and so there was no single event that caused some kind of a split. It was a combination of just basic lack of management principles when it comes to delineation of duties and I think that contributed to about twenty percent of it. I think the other eighty percent of

the gradual breakdown of the situation, the relationship, had to do with the mismanagement in that office, with what in many ways has turned out to be inappropriate use of resources, state equipment, employees, there was incredible harassment, intimidation of employees, and as an aside I can tell you that you would not believe how many calls that Charles and I have received, not only throughout the summer but, especially after Mr. Kolb was terminated by Judi Moriarty. Because those staff members at the State Information Center know that no matter what else happens, Jim Kolb will not come back.

GAW: In May or I guess it was in June, June the 10th I believe.

CAMPBELL: Yes, sir.

GAW: You sent this letter by carrier, in that letter you make reference to a . . .

CAMPBELL: Yes, by carrier. Sent it to Mr. Kolb.

GAW: You allege some sexual harassment, is that accurate, or I don't want to get into specifics, but I just, is that a fairly accurate statement?

CAMPBELL: There was reference not only to, what I believe my attorney referred to as gender based harassment but, some other harassment intimidation that, yes, absolutely.

GAW: And you say that letter was intercepted by someone else other than Mr. Kolb, is that correct?

CAMPBELL: That's my understanding, Representative Gaw. Because the morning of

June 10th, after my attorney, he felt and I agreed with him, this was not something that was appropriate to be delivered to his home. So the courier delivered it then to the office.

GAW: But to your knowledge it did not go to Mr. Kolb?

CAMPBELL: I don't know and I'll tell you then about 11:00 o'clock that morning, Mr. Sparks, the Chief Legal Counsel called me and told me he had the letter.

GAW: That was 11:00 o'clock on the 10th.

CAMPBELL: Yes, yes. That morning.

GAW: And did he tell you anything further about the consequences of the letter that he had a copy of?

CAMPBELL: When he told me he had the letter, I said, "Randy, why do you have it?" And he said, "It doesn't matter why I have it. I do have it." And he said, "I have read this letter and when I reached Secretary Moriarty she was in her car coming back from St. Louis," I believe, that day. He said, "I intend to read it to her." And again my understanding is he read that letter to her while she was in her car on car phone.

GAW: Now after that contact was made, the next episode that occurred was on the 13th, the following Monday, is that correct?

CAMPBELL: Well, later that afternoon, Mr. Sparks appeared at the Capitol Office and told me, well I think he called me first and said that Secretary Moriarty was going to be in the office that

Friday on June 10th at 4:00 and she was going to discuss my letter with me. And I said that's wonderful. I did tell Mr. Sparks that I was not going to discuss it with him. That I would only discuss the issue with Secretary Moriarty. He said, "Well, that's fine and she will be here at 4:00 today." About 4:30 he, Mr. Sparks, appeared in the Capitol Office and said that Secretary Moriarty was running late and that she would not meet with me that day and that the issue would be taken up on Monday.

GAW: And the next and did you discuss, was the next thing that happened that you received this notice of you being transferred?

CAMPBELL: Yes, sir.

GAW: Was that Monday?

CAMPBELL: It was that Monday in the afternoon.

GAW: And did you have any contact with Judi Moriarty prior to receiving that notice that you were being transferred?

CAMPBELL: Sir, the last time I spoke to Judi Moriarty personally was on June 9th. I have not ever spoken with her since.

WITT: Representative Gaw, just for your information our next witness is trying to catch an 11:30 plane out, I don't want to squelch any questions that you may have, but if you could . . .

GAW: I'll try to be a little more brief, unless you want to take them first and call her back.

WITT: Do you have a problem with remaining?

CAMPBELL: I'm available at

your convenience, absolutely.

WITT: Is there any objection to taking a short recess now and calling the next witness and then calling Ms. Campbell back after that? We will take a ten minute recess. If you would like to either go up to my office and relax or we can find someplace for you to sit relax and we'll contact you when we need you back. Ten minute recess. (End of tape #13)

• RECESS •

WITT: I would like to point out one thing. My assistant who is here, Karen Rehagen, has gone above and beyond the call of duty. Yesterday was her wedding anniversary and spending it here with us, I'm sure was not her idea of a good time, but we do appreciate you. Next, we have interrupted the testimony of Barbara Campbell to bring Richard Callahan here. First, Richard, would you raise your right hand. Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth and nothing but the truth, so help you God?

RICHARD CALLAHAN: I do.

WITT: Will you state your name and occupation for the record?

CALLAHAN: Richard Callahan, I'm an attorney and I'm the Prosecuting Attorney for Cole County.

WITT: And you are familiar with the case of State vs.

Moriarty?

CALLAHAN: I am.

WITT: And how are you familiar with that?

CALLAHAN: Upon receiving a fax of a letter from an attorney by the name of David Edwards, I believe, on June 15th, upon examining the contents of that letter there appeared to be allegations that if true constituted a criminal offense and within a couple of hours that day we issued Grand Jury subpoenas to preserve certain records that were within the Secretary of State's Office. We picked up the records that day around 4:30 and then began an investigation around those allegations that were contained in that June 15th letter.

WITT: And you actually convened the Grand Jury and conducted an investigation?

CALLAHAN: Well, we have a standing Grand Jury in Cole County and so the

WITT: The city Grand Jury did an investigation into this and took testimony?

CALLAHAN: Eventually, yes, the testimony was taken from witnesses that we wanted the Grand Jury to hear from as well as witnesses that the defense wanted the Grand Jury to hear from.

WITT: Did the Grand Jury reach any decision based on the testimony they heard and the documents they received?

CALLAHAN: Upon the second day of the consideration of the hearing evidence, yes, they ending up voting indictments

that were subsequently, those indictments became public the following week after the July 4th weekend.

WITT: And what was the nature of those indictments?

CALLAHAN: With respect to Mrs. Moriarty, the indictments centered around two separate events or transactions. One event was the filing of candidacy papers on behalf of Tim Moriarty on the date of March 29th and then the second aspect of the indictment concerned some alterations that were made to some records within the Secretary of State's Office either in late April or early May.

WITT: And there were how many indictments or counts issued?

CALLAHAN: Initially there were two counts, sometime in mid August there was a superseding indictment that was filed that contained a third count. And the structure of the indictment was first count related to the events occurring on March 29th and then counts 2 and 3 were in the alternative which is a pleading checkmate when you have conduct that violates more than one statute because of the double jeopardy clause in the United States Constitution one course of conduct, you can not normally be punished twice for, there's exceptions for felony murder and armed criminal action, but aside from those exceptions, normally, if you have one course of conduct violating more than one statute, the person can only be convicted on one of the statutes.

WITT: And at the Grand Jury did Judi Moriarty testify?

CALLAHAN: She did, she as well as number other witnesses.

WITT: How many witnesses testified in regard to this issue, do you recall, approximately?

CALLAHAN: Ten, eleven, witnesses. You would have the records.

WITT: Okay, and Barbara Campbell also testified?

CALLAHAN: Yes, she did.

WITT: Was there a trial held subsequent to that indictment?

CALLAHAN: Yes, there was, the week of September 6th.

WITT: Was that a jury trial?

CALLAHAN: It was a jury trial.

WITT: And the jury did come back with a verdict of guilt on how many of the . . . ?

CALLAHAN: The jury hung on count 1 with a vote of 8 to 4 for guilty and then on the alternative counts she was found guilty. Count three was the one they chose.

WITT: Just tell us because we weren't there what the nature of the testimony was at the trial and why you believe the jury came back the way that it did.

CALLAHAN: I guess in attempting to analyze the case and why what happened, happened, obviously you have a dispute as to events that occurred on March 21st, when Timothy Moriarty appears in the office. And of course you have Barbara Campbell's testimony that she was told in no uncertain terms that they wanted some preliminary paperwork done, but

that Tim Moriarty was not going to file that day because there were some problems. And then you have the Moriarty side of that story which is simply that on that day we intended to file, we thought we did file. Initially in the investigation, I thought that perhaps there may have been some middle ground or some middle possibility and that was that the Moriartys wanted all the paperwork done, including the signing of a Declaration of Candidacy paper, and then they were instructing Barbara Campbell to simply hold that signed Declaration and file it at some subsequent date when they gave her the signal to go ahead. That was a personal theory that I thought might be possible, but when I questioned the parties to this incident, Barbara Campbell in no uncertain terms has always said that that is not what happened. And when questioning both Tim Moriarty and Judi Moriarty they also say that is not what happened. The Moriartys have at least by trial were consistent in their statements that they simply intended to file on March 21. They never asked that anything be held and they just assumed he was filed on March 21. Barbara Campbell has indicated that this is not true and was told to hold the paperwork because there was a problem and until the problem was solved, they didn't want the papers filed. I think, and I'll point this out, I think it would still be a crime if you signed a Declaration paper, left it there, but said don't file it. Then called in eight days later from Kansas City and said, "Okay I want you to go ahead and file that piece of paper." Assuming that would be a violation as I read that statute, when you intend to go over and file, you have to be there. But at

least that never become a significant issue in the trial because neither side claimed that's what they were attempting to do. Point analyzing whether or not Barbara Campbell's relation of the events is true and correct, if you are to believe the Moriarty version you have to believe that either Barbara Campbell made a mistake somehow or she did it on purpose. In attempting to decide whether she did it on purpose you have to look for motive. Now the falling out between the Campbell's and the Secretary of State occurred in June, but back in March when Mrs. Moriarty was asking Barbara Campbell to handle this filing there was no falling out that had occurred. Rather, Barbara Campbell was a trusted member of her staff and some six weeks to two months later, Mrs. Moriarty was giving Barbara Campbell a raise. So why Barbara Campbell would intentionally mess up the filing of the boss's son, I just really couldn't find any motivation. If you were going to do it on purpose, you'd have to recognize that your mistake is going to be discovered or will probably be discovered right away. Because at the end of each day, as most of you know, there is a list published, a daily list of the candidates that filed that day. That is something that is of interest to members of the General Assembly and their staffs and something of interest to the media, so if you have Mrs. Moriarty and Tim saying, "Barbara, file Timothy this day March 21st." For her to purposely not do it, I mean she would have to recognize that in all likelihood the boss is going to discover it, either at the end of business that day or certainly the next morning when

everybody looks around and Tim's name is not on any list. So the idea that it would be done on purpose just made absolutely no sense as we approached it. So then you get into the, okay, could it have been done accidentally, she messed up the filing. The process is a relatively simple process, although the most simplest of tasks can always result in some error. In this particular instance, of course, you get the person, if the person does not have a receipt from his or her party, you have to take care of the \$50 and issue that receipt. That was done and that's dated March 21st. Then the work sheet is filled out. And eventually the third step in that process is the generation of the Declaration of Candidacy. Before you can generate the Declaration of Candidacy, as a practical matter, you have to take that work sheet go over to a separate clock stamp and log in the work sheet. That is not a procedure that is required by statute but that is a procedure that the individuals taking the filing were instructed on. And if you examine all the other work sheets, that is done. So the very first step in the process you have to go over to the clock, put the piece of paper in, and you get the date and time. Then when you fill out the Declaration of Candidacy, you put in the date and time that are on the work sheet, that is not something that is generated by the computer as such. Now in the computer program it was true when you came to the blank on date you could do one of two things. You could type in the dates yourself, which is perhaps a weakness if you are attempting to maintain the integrity with these papers but, or you could hit a separate button and automatically print that date, so you had one of two

buttons, but still it is within the control of the person entering the information. But the time you actually had to do like you were doing it with a regular typewriter and you could put any time in there you want, now as a matter of filing practice, the time that they would put in would be the time that would be shown on the work sheet.

WITT: Does the Declaration of Candidacy have the time on it?

CALLAHAN: Yes, so 1:19 p.m. on March 29th, which is the same that is shown on the work sheet. Now I have at least heard that there is some speculation the perhaps Barbara Campbell in some fashion in typing up the generation, the Declaration of Candidacy, perhaps she made a typing error and only later discovered her typing error and so that's why something else had to be done. But that ignores the fact that you couldn't be doing the Declaration of Candidacy until you first file stamped the work sheet. And you have a copy of the work sheet that was part of the file in this case and the only time date stamp on that work sheet is March 29th, so if you are talking about an accident or a mistake, it's not simply in typing a wrong date or time on a declaration, 'cause you wouldn't get to that point until you had first file stamped the work sheet, because you have to know what time you are going to type on. Then to think that some how, and it's not that if you forgot to file, if you forgot to time stamp the work sheet at the point when you are typing the Declaration of Candidacy you are going to notice that there is no time on there. This notion that somehow there was some clerical error made on the 21st really doesn't

seem, I just can't conceive of a way where you could mess up the file stamp, forget to do that and then not notice the time. And when you come to the time, you have to type something in, you would look to the work sheet. It just defies logic and description, I think to believe that somehow Barbara Campbell did this as a matter of some inadvertent error, some clerical error.

WITT: Now you talked to some computer people, the gentleman that wrote the program for the Secretary of State's Office?

CALLAHAN: Correct.

WITT: The document which came from Tim Moriarty which has his signature, but the "record not found" at the bottom of it. From that computer individual, could that have been created at a later time, could it have been created at the first time? What information do we have about it?

CALLAHAN: We could refer to that as the XM declaration, I think it has an XM on it. This computer program is not a sophisticated program in that there is absolutely no audit trail whatsoever as part of the program. The Declaration of Candidacy form that you have in front of you I think at trial, Hal Hebert, he admitted that anybody with a PC and a laser printer, but in your basement, you could be creating these Declaration of Candidacy forms just as you have it there in front of you in about ten minutes. It would take a programmer just about ten minutes to set it up and be producing those in his own basement. We retained our own expert when we seized all the computers and the computer

tapes from the office to see if, what we could learn by, and I'm not a computer expert, but going a lot of times when you eliminate things there is a hidden record. We found, of course, that the Declaration of Candidacy dated March 29th, that was still in there and we could find that that was in fact prepared on March 29th. When we looked at March 21st to see if anything was in there, there was absolutely no trace that any Declaration of Candidacy was prepared for Tim Moriarty on March 21st. Now the fact we could find no trace, doesn't absolutely insure that it couldn't have been done because of the simplistic nature of the program there is simply no audit trail. But at least we could find no evidence of it and we screened a number of the different computers to see if we could find any evidence that was done on different, we just couldn't find any trace of it. When you get into the mistake or accident I just don't quite see how it could happen by mistake or accident either. Now in terms of trying to analyze whether Barbara Campbell is telling the truth, she says, I think you have to look at the, logically of the 579 filings I believe, this is the only one where the candidate never signed the Declaration initially. It's a simple process when, she said, the reason I was told he didn't want to file was because there was some problem. She didn't know what the problem was, just some problem, so they wanted to hold up. Well, it turns out there was a problem. So the fact that you learn from the Department of Labor that just an hour or so earlier they suggested to him that running might be a conflict of interest, might be a violation of the law, and were under the impression that he was going to wait.

Colleen Baker is a friend of the Moriarty family. She doesn't know Barbara Campbell. There is no way Barbara Campbell would have any information that there is a problem, unless it comes from the Moriartys. On this particular date, she said, they told me there was a problem, but they didn't tell me what the problem was. So I think she is corroborated in that regard. The fact that the daily list on March 21st, it shows the people that filed. Tim Moriarty's name is not among those on March 21st. So the daily list corroborates the Barbara Campbell version. Later on in late April and early May when they discover the Declaration is not signed and they "fix it," if they thought he signed it on March 21st, if that's the date he filed, if you are fixing it and these Declaration of Candidacy, these forms you can produce with the pressing of a button, when they so-called fixed it, why didn't they put March 21 down on the date. If that's the date he really filed. There is probably a lot of other little things, but in whole, it makes very little sense to me that Barbara Campbell, with the boss's son you are going to intentionally, that's a Declaration that your going to be very careful about. The idea of mistake, accident or on purpose just makes no sense, which is corroborated by the other physical records within the office and Colleen Baker. Now with respect to the defense explanation, I think, in the Grand Jury particularly, I have not spoken with members of the petit jury, because under our local rules we can not speak to them until their service is done, but the defendant's explanation that she never looked at her son's filing papers, she never bothered to look at the list on

March 21, to see her son there among the list of other people. On March 29th, we had documented where she had reviewed all the filings and there it clearly shows her son as filing on the last day at 1:19 p.m. She claims she never noticed that. The Grand Jury just thought that a mother at some point, would have been curious enough to look at one of those papers, one of those lists. The fact of his filing, that he was the first child to be filing for public office that this lack of interest didn't match with just a few short weeks later she is filling out all his ethics filings for him. On one hand, when you have the Declaration of Candidacy papers and those papers she claims never to have seen them, never to have looked at them, and yet when you come to the ethics filings, she's doing all the work and he is not doing anything. So there seems to be a little inconsistency and untreatment there. I don't know if that was in short or in length, but that was pretty much in analysis of some of the basic facts and issues in the case.

WITT: Was there any corroboration of Mrs. Campbell's allegations that Judi Moriarty ordered her at a later date to go back and sign that form? That it was the Secretary of State who told her she had to sign that form?

CALLAHAN: That depends on what day you talk to somebody and who you talk to on that particular date. At trial itself, Barbara Campbell, indicated, of course, that she was directed by the Secretary to go over and do it, not to tell anybody, come back and let her know when it was done. Everybody else who you would have expected to be involved for example, Mr.

Carroll, Mr. Wiseman, Mr. Kolb, everybody else claims they did not tell her to do it. In terms of corroboration, no one else claims that they were the ones that ordered her to do it rather than Mrs. Moriarty and Barbara says I did it because Mrs. Moriarty told me to do it. So we didn't even have somebody else coming forward and claiming credit, if you will, or perhaps responsibility might be a better term, for having told her to do it. Everybody else says, "No we didn't, no we didn't, no we didn't." Of course, Mrs. Moriarty also says, "No we didn't," but Barbara says, "I did it because Mrs. Moriarty told me to." And with respect to Tim, once again, these same group of individuals, everybody says I was not the one to call Tim and to tell him to come down and sign it, including his mother, and yet Tim comes down and signs it and Tim says I don't know who told me to. There were explanations that just didn't seem to square.

WITT: Are there other questions? Representative Richardson.

RICHARDSON: Nadine Barrows, in your summaries, you didn't talk any about her Rich, and we have heard considerable testimony last night, in fact some from your investigator, that some time after the initial statements were taken and after the Grand Jury had dealt with it that she had contacted your office and had stated that she recollected, after further reflection, that there had been a Declaration of Candidacy that she had seen and that she had disposed of, can you shed any light on that?

CALLAHAN: Yes, the, number

one, she never actually contacted our office. I want to say shortly after the trial was to start her attorney, Jim Gallaher, was the one who actually contacted and made that representation, that was a Nadine Barrows, another step that I would describe in what was an evolutionary process in her stories. The very first time we interviewed her, she claimed to know nothing about nothing about any papers, period. Subsequently, we put her under oath and took a statement with a court reporter present and her memory had improved some. Then at the Grand Jury, and I would specifically point out to you pages 207 - 210 or 211, there is a series of questions where she was just asked pointedly several times, "Did you ever look at these papers that were in the back of the desk drawer?" And she repeatedly said, "No, no, no." I knew that if they were candidacy papers, I hope I'm correct on those page numbers, if I'm not let me know. In there she would say I knew that if they were candidacy papers, what those papers ought to be, but I never actually looked at them to confirm whether or not they were candidacy papers or what sort of papers were there or anything else. And for four or five pages here, I think pretty specific on that issue and so when her attorneys came up with something new and her Grand Jury statement had changed from her regular statement. So we knew about it, it was another change, there were other changes, and I don't know that I really want to get into all of them, but there was a certain amount of, I referred to it as slippage, that occurred during that week in trial. And that is not necessarily uncommon, all of the defense

witnesses were generally friends and employees of the defendant. Our main witness was someone who was an ex-employee. And certainly the fact that she's an ex-employee is fair game to test her credibility, but obviously at that point she had chosen to exit the circle, if you will, and so among that circle there was a number of different times, there was slippage.

RICHARDSON: One of the things that was consistent, I think or tell me if it wasn't, was the statement that Barbara had said to her when they printed the 3-21 list that "Remember that there is a hold on Tim. One of us will have to delete his name from the list". Wasn't that something that was consistent throughout?

CALLAHAN: It wasn't consistent from the very first time when she didn't know nothing about nothing. That was later on the two things that she was, but then when you go to, when we put her under oath, at that point, she was consistent on two things. She didn't know what date and so you are incorrect on the date whether it was the 21st or it could have been the afternoon of the 22nd. But what she did confirm was this, that number one that Barbara at some point that Barbara said to her, "Tim Moriarty was in, we were supposed to get the paper work done but he didn't want to actually file yet, 'cause there is some problem so we're supposed to be holding it to see what happens." And Nadine Barrows was, from the sworn statement, she was consistent on that as well as the fact that his name had to be deleted. I tend to question the authenticity of the XM Declaration. If there had

been one generated, it really was not very significant in that you could have generated the XM and the lack of time would have been shown that it was simply a practice Declaration, if you will, to show how the name will look on the ballot, because once again until you file stamp and clock stamp, if you will, the date and time you can't do a Declaration that's gonna really count. Whether a practice one might have been done to showing that. But in quizzing Barbara Campbell she was always emphatic (End of tape #14) from the beginning that I certainly never generated any practice declaration for him.

RICHARDSON: But during the times that Nadine Barrows was under oath her testimony was consistent that one was generated and that a deletion was subsequently made.

CALLAHAN: If one had been generated, from the sworn statement, the deletion is simply if you do a practice one you have to take it out. And she was consistent on both of those and yes she was and our view of that was in large part the more important aspect of that was she corroborated Barbara Campbell in that they had been told to hold the paperwork up until some problem was resolved. Now she contradicted Barbara Campbell in the deletion aspect and some other things so what you have a lot of times in criminal cases and in all cases, you have a witness that part of their testimony strengthens and corroborates your case and there is another aspect where it tends to hurt your case. And I viewed that as being about 50/50 because at least it corroborated the fact that Barbara Campbell was telling people that we have

got the preliminary paperwork here, but we've been told to hold it up. Which is contrary to the Moriartys which are saying absolutely not, we thought he was filed, eventually that's the result they came to 'cause you have to keep in mind this defense did go through an evolution. On June 22nd at the time of the press conference when Tim Moriarty announced that he was withdrawing, he issued a written statement and that was one of our exhibits and if you look at our exhibit list you will see where the written statement issued by Tim Moriarty on June 22nd is one of those exhibits, and in that written statement Tim Moriarty said, "I never signed anything on March 21."

RICHARDSON: When Nadine's attorney contacted you did that give you some concern or at least you had to consider the question whether or not you had some exculpatory evidence that needed to be dealt with potentially?

CALLAHAN: No, Jim Gallaher is a former law partner with Roger Brown and Jim told me he had already conveyed that information to Roger Brown. I didn't view the information as all that, it really didn't worry me very much, because Nadine's story had already done some changing and once again if you will look at that Grand Jury testimony from pages 207 to 210 or 211, if she was going to get on the stand and tell this latest, I felt pretty confident that any 12 reasonable people about hearing what she had to say back at Grand Jury time and how she specifically denied ever looking at or seeing these papers, not much stock would be put in to the latest story.

RICHARDSON: But at any rate regardless of any validity, strength or weakness of it was it disclosed as potentially exculpatory evidence?

CALLAHAN: Sure, in fact there was a motion that the defense, we talked about it, they filed a motion, we had a hearing, and I forget whether it was prior to voir dire, or right after voir dire, or sometime that day we had a little discussion of it, in fact prior to voir dire, because they had filed a motion requesting that we grant immunity to Nadine Barrows, and of course, as you know, the General Assembly has not seen fit to grant prosecutors the authority to grant immunity, but they were asking for that and the whole matter was discussed about what her testimony would be prior to the jury selection process beginning.

RICHARDSON: She was not charged at that time with anything?

CALLAHAN: Correct.

RICHARDSON: She had never been taken to the Grand Jury.

CALLAHAN: Well, she testified before the grand jury.

RICHARDSON: I mean as a suspect?

CALLAHAN: Well, let me say this at the time of the investigation, I don't know, we didn't identify, I don't know that we had a list, quite frankly, of who we were looking at, we were looking at. Now obviously, Mrs. Moriarty was clearly somebody under consideration, but beyond that there was no short list or anything else. The Grand Jury was hearing testimony from all sorts of people and all sorts of

sides and how it was going to be sorted out was something that was only. You'd have to actually ask them, I wasn't there when they did the sorting.

RICHARDSON: You didn't request an indictment from the Grand Jury for Nadine?

CALLAHAN: No.

RICHARDSON: And your reason for not granting immunity was not because it was without merit, it was because you felt you didn't have the authority under the law to grant such immunity?

CALLAHAN: No, if I had the authority I would not have either. I didn't grant immunity to anybody in this case, including Barbara Campbell. And I wasn't in the immunity granting mood.

RICHARDSON: I hope I never have to be before you. You're a mean spirited. At the trial Nadine testified.

CALLAHAN: Yes, she did.

RICHARDSON: And we were told, although we don't have the transcripts from the trial, she answered questions right up to that question about whether or not there was in fact a Declaration of Candidacy that had been destroyed and that questioned was never asked or answered. Is that right?

CALLAHAN: My recollection, my belief is that she really almost got to testify about everything anyway. She got to testify that there was a deletion, she testified that she saw a declaration. So the fact that she didn't say I threw it away, she got to testify there was one and I

in turn got to cross examine her on the basis that when you were in front of the Grand Jury you claimed you didn't look at anything. We spent some time going over that and so I think the thrust of whatever exculpatory evidence there was I really think it did come out in terms of her allowing this, her saying that his name was in the computer and I saw a declaration. So I think they got the thrust of the help that her testimony was providing.

RICHARDSON: I've just got a couple of other questions, Mr. Chairman. This does not have so much to do with maybe the substance as the procedural aspects, I understand that from the evidence we have been given that she was found guilty on one count and she was not acquitted but not found guilty on the other two count.

CALLAHAN: Two and three you almost have to look at as one count, because under the instructions you can only do one or the other. Even if the jury wants to do both, you can't. So if you look at it under two halves, you have the March 29th episode and then the April, May episode.

RICHARDSON: When the jury came back with their results, they didn't apparently view it that way or maybe I'm misunderstanding, because on count one and two they failed to find guilt and I think that was their specific writing it, wasn't on there?

CALLAHAN: No, the count one, there is only two verdict forms, they could only bring in two verdict forms under the instructions. You have to do something with either two or three and you have to do

something with one. On one it was early when I read it, but I believe they indicated that they were unable to decide the issue of innocence or guilt as to count one, commonly called a hung jury as to count one, and then on the late April or May 29th episode, she was found guilty and they recommended a fine.

RICHARDSON: It was kind of early when I looked at it, too.

CALLAHAN: There was some earlier confusion at the time they came in because about ten minutes earlier the jury had asked to question as to whether or not on a recommendation of punishment if they had to be unanimous. So obviously there was some disagreement among the jurors as to whether a fine was appropriate or whether they thought jail time was appropriate.

RICHARDSON: But at any rate, the finding of guilt did come on count three.

CALLAHAN: That's correct.

RICHARDSON: It is my understanding a motion for a new trial has been filed?

CALLAHAN: It hasn't been as of Wednesday afternoon, one hadn't been filed. I can't tell you if something was filed yesterday or this morning.

RICHARDSON: Is it your understanding that they intend to file one?

CALLAHAN: Well, statistically, I would expect that, because after most trials you have a motion for a new trial and I would be surprised if one wasn't filed. But I haven't had any actual discussions with them

about that.

RICHARDSON: Was there a motion to extend the time for filing a new trial?

CALLAHAN: That was part of the original order on September 10th that automatically the additional 10 days was granted.

RICHARDSON: So how long do they have to file that motion?

CALLAHAN: Twenty-five days from September 10th.

RICHARDSON: And then normally, in Judge McHenry's court, what would be the timetable for the arguments on that motion?

CALLAHAN: The normal event would be at the next law day which is October 17th and 18th.

RICHARDSON: Assuming that is filed and argued and the Judge grants it, let's just say, what would be the procedures then at that time? A new trial would be granted at some time, pretty far off into the future?

CALLAHAN: I'm sorry . . . ?

RICHARDSON: If a motion for a new trial was filed and was argued at the next law day and the motion was granted

CALLAHAN: Well, if he ordered a new trial, then we would set it down for trial again.

RICHARDSON: Sometime after what, after what the first of the year probably?

CALLAHAN: My experience has been if defendants want a quick trial, we could as in this case it was done relatively quickly, if the defendant wants to drag

their feet, then it would be after the first of the year. If the defendant wanted a short trial, a quicker trial, we would certainly accommodate them.

RICHARDSON: And if the motion was filed and argued and lost and at that point the Judge would then set a sentencing date? Is that normally what Judge McHenry does?

CALLAHAN: I would actually expect that there would simply be sentencing right then and there.

RICHARDSON: On that same day?

CALLAHAN: Yes.

RICHARDSON: This would not be the type of case where the Judge would order a presentence investigation or take the matter under advisement, in your opinion?

CALLAHAN: Well, he would not order a presentence investigation, yes. I am always reluctant to predict whether a Judge would take something under advisement or not.

RICHARDSON: So twenty-five days from September the 10th would be around October 5th or 6th.

CALLAHAN: That would be close.

RICHARDSON: So it's conceivable then that he could sentence as early as October 6th or 7th?

CALLAHAN: That would be conceivable but that would be unusual. But technically as you know you can't sentence before the expiration of the 25 days.

Once the 25 days has expired, subject to adequate notice to the parties, you could proceed. A normal procedure wouldn't occur to us until a succeeding law date.

RICHARDSON: You have practiced here in Cole County for a lot of years, in front of Judge McHenry for a lot of years.

CALLAHAN: Yes.

RICHARDSON: Have you ever known of an instance where an individual was found guilty in a jury trial, where that person was not in fact sentenced to something by Judge McHenry?

CALLAHAN: I would rather make a more general observation. I don't know if it would be appropriate for me to be predicting what I think Judge McHenry would do and I don't know if it would be fair to the Judge. Generally, as practicing lawyers in a criminal area we recognize that rarely if ever does a defendant, I assume you are asking about suspended impositions of sentence.

RICHARDSON: Yes, that is what I was referring to.

CALLAHAN: Rarely if ever does a defendant receive a suspended imposition of sentence after a trial, particularly where he has testified. 'Cause normally the use of suspended imposition of sentence is something that is associated with mercy or consideration in someone who has testified and who's testimony has been flatly rejected by the jury. From the standpoint of remorse and the like there really isn't a record of remorse. Rather there is simply flat out denial, so usually the suspended imposition of sentence isn't

utilized by the judiciary.

RICHARDSON: Have you looked at or considered the ramifications of 561 dealing with the forfeiture of office, as it would relate to this case?

CALLAHAN: Not before or during the trial. Did I look at it? I may have looked at the statute but in terms of really thinking about or worrying about it no, I did not.

RICHARDSON: I wasn't implying that it had some bearing, just as a curiosity, because you are a very well respected legal mind and I was wondering . . .

CALLAHAN: My mother thinks so.

RICHARDSON: Your adversaries do as well. Do you have an opinion as to what the effect of a sentence of a \$1 fine or \$1000 fine or any other type of rendering other than an SIS would have on Judi Moriarty's status in office.

CALLAHAN: Let me, I don't want to lie to you. Yes, I do have an opinion. I have that opinion and I kind of think of it as a private citizen and I am really reluctant to express that opinion. Simply because of the fact that I was the trial prosecutor in the case, I think the opinion might be given more publicity or notice than it really deserves, 'cause it would simply be an opinion as a private citizen and so I would really respectfully ask that you . . .

RICHARDSON: I can respect that. Thank you very much, Mr. Chairman.

WITT: Further questions?

Representative Gaw.

GAW: Thank you, Mr. Chairman. Richard, if I understand all of this correctly that there is a Declaration of Candidacy form that was filed and I think that may have been your exhibit one --I'm not sure what that exhibit is numberwise-- the one that was dated the 29th of March. That was the one that was signed in, I think April or May?

CALLAHAN: Late April or early May.

GAW: And that was signed in that time frame by Barbara Campbell and Tim Moriarty.

CALLAHAN: Correct, When Barbara Campbell went over to sign it, it was still blank. She was the first signature placed on it and then sometime later, and no one really knows when or has any idea, Tim put his signature on it, also. And that was the only, and if any member of the public or anybody had simply gone to the Secretary of State's Office and said I want to look at the candidacy papers for the 56th District on the Democratic side, you would have seen two sets of papers in there, one belonging to a Ms. Lane and the other one with respect to Tim Moriarty and his, of course, would have had the March 29th 1:19 p.m., but would have contained no signatures up to . . .

GAW: Up until that time in late April or May.

CALLAHAN: Yes.

GAW: Then there was another Declaration of Candidate for nomination form that appeared and I believe that was discovered

according to Tim Moriarty after he decided to withdraw from the race, is that your understanding?

CALLAHAN: Correct.

GAW: And that was also introduced as an exhibit.

CALLAHAN: Yes.

GAW: On that form Tim Moriarty's signature appears, is that correct? Was that identified as his signature by a hand writing expert?

CALLAHAN: Yes. Tim admitted that he put his signature on it and we retained a handwriting expert who confirmed that the Campbell signature was her signature and that the Moriarty signature on the Declaration was the Tim Moriarty signature.

GAW: On that Declaration form Barbara Campbell's signature does not appear, is that correct?

CALLAHAN: The XM one?

GAW: Yes, the XM one.

CALLAHAN: Correct, it only has Tim's.

GAW: There is no other signature on that document?

CALLAHAN: Correct.

GAW: And that is the one that he discovers sometime when he announces that he is withdrawing from his candidacy.

CALLAHAN: Afterwards.

GAW: Yes.

CALLAHAN: Brings that the next day, I believe. I might note the XM declaration, the minute

he walked with that into our office, the investigator took it from its corners, placed it into some clear plastic and we had it developed for finger prints. And obviously we were interested in seeing if he had claimed he had got it from Barbara Campbell and that so if Barbara Campbell's fingerprints turned up on that document there would have been some corroboration that it was a genuine document. Again, I should know more about this, but I don't. The finger prints can stay on paper for a fair amount of time, if it's just put some place. Anyway they developed the paper for finger prints and Barbara Campbell's finger prints, you could not find any of Barbara Campbell's finger prints on the paper. Now a lot of the stuff you develop when you do that are smudges that you simply can not identify period. They're not of a sufficient clarity or have enough points that you can make any identification.

GAW: Were there any identifiable fingerprints on that document?

CALLAHAN: The only ones we checked for was for Judi Moriarty and for Barbara Campbell. Neither of theirs were on there. We had requested Nadine Barrows submit finger prints. She declined to do so and we, at some point there was some talk with having Tim come in. That never happened. That was one of the things and I don't think that was by any design. I think that both defense counsel and I were just a little busy and quite frankly the fact that Tim Moriarty handed the sheet in, his finger prints were going to be on there, so it wasn't, in terms of all the things we were working on, that really

wasn't a high priority.

GAW: The bottom of that particular exhibit, the XM exhibit had something about "record not found" on it, do you remember seeing that?

CALLAHAN: Yes.

GAW: Now was there any testimony or anything in the discovery process that disclosed what might cause that kind of a?

CALLAHAN: What might cause the "record not found" will be generated when you either do not punch in any date or if you punch in an incorrect date. An incorrect date, and if you go through the filings the program was set up for filings occurring between February 22nd and March 29th, so if you look at, there were some vacancies that occurred after the close of filing. So filing was reopened and so they were still using this same program, so when those people filed, they would try to type in April 3rd or May something and because of that program it would generate "record not found", so certainly the date that you attempted to type in would be beyond the filing deadline generate that "record not found." I believe that if you also attempted to do a Saturday or Sunday during the filing period, it might also generate that "record not found."

GAW: So if that document were generated sometime after the filing deadline, would it have come up with that "record not found?"

CALLAHAN: Well, except for this, let's say you are in June, but you can type in March 21st, March 29th, and the Declaration will print out March 21 or March

29th, so this was not a program that had any protections whatsoever. You could back date or forward date to your heart's content. The only time it would do "record not found," is if you typed in an incorrect date or if you just hit that button to use whatever today's date was and that date happened to be incorrect, it would generate the "record not found."

GAW: That's the second Declaration that we've heard about. Now there is a third one that has been referred to as I understand, is that correct, that was thrown away?

CALLAHAN: No. Well, okay, I take that back. What you have, you have a lawyer representing Nadine Barrows, well you have some reference of very recent vintage of some reference to

GAW: Some third Declaration.

CALLAHAN: Well, it would be the original. Tim's claim was that the paper that he brought into our office was a xerox copy of something he saw on March 21st. So the third one you're referring to by inference would be the original from which Tim got his copy.

GAW: So the one he brought into your office was a photocopy?

CALLAHAN: Correct.

GAW: Okay. You are familiar with the way things work over here and how things are during filing. You see candidates running up every so often, maybe everyday, maybe every two hours to see who has filed against them. I'm sure you have seen that before. Did it strike you as being unusual in any way, now where is that list?

CALLAHAN: It was posted, it was distributed to some of the media, it is posted outside of Room 208 in the Capitol. That's where I go back to the notion that Barbara Campbell some how would have done this on purpose makes absolutely no sense to me, because her mistake would have been discovered I would think instantly. You would expect the mother to be going out to look at the list and seeing her son's name on that group of filings for that date.

GAW: Would you have expected her to also be curious about whether there might have been some other candidate file?

CALLAHAN: During the course of that week, whether anybody else is going to file for that same seat, yes. You would think that if the Moriarty family felt that he had filed on March 21st, they would have somehow picked up that his name never showed up on any of their records.

WITT: Remembering that the witness has an 11:30 flight, do you promise me that this is one question?

CALLAHAN: If I miss my plane that's fine.

RICHARDSON: This may lead to just a couple of follow up questions.

WITT: I thought as much from you.

RICHARDSON: Early on in some of the documentation, in letters or accusations or whatever, were you looking for or thinking there may 'ave been a forgery?

CALLAHAN: In the Edward's letter he alluded to the fact, his

belief, that Mrs. Moriarty had signed Tim's name to the Declaration of Candidacy.

RICHARDSON: In fact, it was little more than eluding to it, it was almost direct.

CALLAHAN: The letter speaks for itself. When we questioned Barbara Campbell, she related that Judi had told her she wanted a copy of the Declaration because she wanted to copy his signature onto an Ethics form filing. We were later able to confirm that Mrs. Moriarty did in fact sign Tim's name to the ethics filing. Mrs. Campbell told us that she didn't know who signed Tim's name to the Declaration, whether it was Tim or whether it was Mrs. Moriarty or whoever, she just had no knowledge of that. The letter raised that inference. From the first time when we questioned Mrs. Campbell, she didn't in fact have any knowledge as to who actually signed the Ethics form, she just related that Mrs. Moriarty wanted the Declaration so she could obtain a copy of Tim's signature to put on the Ethics form. We were able to confirm later through the handwriting expert and the like, that Mrs. Moriarty had indeed signed his name to the Ethics filing, but did not sign his name to the Declaration of Candidacy. (End of tape #15)

RICHARDSON: Of course, the ethics form had nothing to do with the charges that you ultimately prosecuted.

CALLAHAN: Well, they were exhibits in the case. They related, they had nothing to do with the elements of the crime.

RICHARDSON: There were some newspaper reports that

were pretty widespread around the State that initially, that an allegation had been made about forgery by the Secretary, I think. Isn't that correct?

CALLAHAN: At some point, well I don't recall, whether the Edwards letter at some point was leaked to the press or there was a lot of publicity going on in this matter.

RICHARDSON: At any rate, in your criminal prosecution here, forgery was never suspected or proven or alleged in your complaints or proven by a jury anywhere along the line that Judi Moriarty had forged any of the relevant documents to these charges that we have before us.

CALLAHAN: Quite frankly, the facts, the underlying facts for count three and actually count two, would also satisfy the elements of the forgery statute. Forgery is much greater than simply putting somebody else's signature. A forgery can be putting different training hours done. We have convicted one person of putting down wrong hours on renewing his EMT license. The Grand Jury did have the option of considering forgery under the facts of this case. The fact that Tim signed his own name did not mean that a forgery prosecution could have followed on these facts. In the end the Grand Jury had the option of the no true bill of some misdemeanors or a felony and it was completely left up to their discretion and they came back in the fashion that they did.

RICHARDSON: Your investigations with experts determined that all of the relevant election documents that were the subject matter of this criminal prosecution were actual

signatures by Tim and not forgeries by his mother, is that right?

CALLAHAN: Well, we only have one document.

RICHARDSON: Plus the exculpatory document that, wasn't it also tested?

CALLAHAN: No the XM wasn't since it was a xerox copy. Handwriting experts like to work with original documents before they opine on the authenticity of signatures.

RICHARDSON: Thank you.

WITT: Representative Richardson, you count like Dan Quayle spells. I have two very quick questions. When Tim Moriarty appeared before the Grand Jury when you originally interviewed him, up until trial, had you asked him if he had any copies of these documents or tried to get him to produce anything that he may have that may be exculpatory or may show that he had filed back on the 21st?

CALLAHAN: We, when I say we, it's the editorial we, an investigator from our office interviewed Mr. Moriarty, I believe on June 16th. If we received the fax of the Edwards letter on June 15th, we got ahold of Mr. Moriarty, after we got the original documents, we got ahold of him some time early that evening and set up a meeting in some coffee shop near Lake Lotawana, for the next morning, I believe at 8:30 and he was interviewed there. At that interview, he claimed that he was not given any documents, and stated that he had not signed any documents. I believe similar statements were also

made to individuals with the Attorney General's Office. Then on the June 22nd press conference, in his written statement, indicated that he never signed anything on March 21st. It was only the next day when the XM document appeared and he started to relate that he had in fact signed something.

WITT: Even if Tim Moriarty did go down and sign the documents on the 21st and those documents were created, if they were later destroyed if they were misplaced, no matter what happened to them, if the Secretary of State had ordered a new document created later or had ordered some changes to an existing document, to change the substance of that document, would a crime still have been committed, in your opinion?

CALLAHAN: I believe definitely so, both on counts one and two and three. I go back to the beginning, although both sides disavow it, if in fact, they had intended him to sign a Declaration that they would later file when he wasn't around, I believe that is still a violation of the law. The act of filing a piece of paper requires the intent, "Here is a piece of paper and I am filing." It's kind of like getting married, you've announced the intention to get married and you perhaps have licensed, the papers have been prepared, but until Saturday evening when you say "I do", you aren't married. And I think until you may sign the paper work.

WITT: She may not say I do.

CALLAHAN: Then I'm definitely going to miss my plane, if we get into that subject.

I think it requires, it's not just the paperwork and signing your name, I think it requires an intention. If you accidentally drop a piece of paper in the Secretary of State's Office when you didn't intend it to be filed as a Declaration of Candidacy, I don't think you have a filing. I think, it requires some intent to file.

WITT: Representative Wible.

WIBLE: Very quickly, Mr. Chairman. You just stated that a crime would have been committed under this scenario that....

CALLAHAN: Which both sides disavow, neither one of them says that's what is going on but that was my initial suspicion that perhaps they meant to have the signed declaration and then not file it until a later date. But both sides say, no.

WIBLE: Well, I have made notes as to what had been admitted here and then well, I was thinking that she had admitted that the documents were basically back dated and signed. But it appears from the instruction, the jury instruction in the 5th paragraph there, one of the things that the jury had to find in order to find her guilty was that the defendant did not act with a reasonable belief that his conduct was lawful as submitted in this instruction. And it is my understanding that she claims she acted with the reasonable belief that it was lawful on the advice of the counsel.

CALLAHAN: Well, she denies that she ever told anybody to sign the documents. Whether that instruction should have been given is a separate issue,

but under that instruction that would apply if you do something but I did it on so and so's advice. She denied she ever did. She denied that I ever told Barbara Campbell to sign the document. She denied that she told her own son to sign the document. And so in one sense that defense didn't even apply. But it you'll ignore that first hurdle and say well, even though she said she didn't perhaps, she did, as Barbara Campbell will tell you that she did then that defense says well if she was acting on reliance of advice. Now Mr. Sparks never testified at the trial. If you've read his testimony he basically has been consistent in the past as saying he never advised her until long after these events, I think, sometime in June when they had talked about it or something but in terms of his testimonies but he never advised her in advance. She has said that election's people told her this, but it has never been really clear who. Mr. Carroll never indicated he had any conversations with her beforehand and Mr. Wiseman, there was a little give and take in the cross examination about whether he had even received a telephone call from her. While she claims she had been advised, it's unclear who it was that advised her, also.

WIBLE: Okay, I guess I'm still a little unclear as to what exactly she has said what her role in that was. I need to review what

CALLAHAN: She has always maintained that she never told Barbara Campbell to sign the document and she never told her son to sign the document. The jury instruction finding her guilty, the jury had to reject that testimony and find that she did

tell them.

WIBLE: And that she did it without the reasonable belief that it was lawful?

CALLAHAN: Correct. Now in that regard and I think the jury was bothered...to the extent, we checked with counsel he gave an offhand, one sentence opinion without anyone ever doing an investigation into what the underlying facts were. In the instruction on defining what it requires an official statement of law and reasonable belief and I suspect that a jury would have had a problem in finding that that existed either an official statement of law or a belief that was reasonable, but that was a defense that was submitted for the jury's consideration on behalf of the defendant.

WITT: Richard, thank you very much for making a very early morning flight in and taking your time to testify here today. I hope you make your flight, thank you very much.

CALLAHAN: Thank you and good day to everyone.

WITT: We are going to take a ten minute recess, then we will bring Barbara Campbell back to complete her testimony.

• RECESS •

WITT: You recognize that you are still under oath from the previous testimony?

CAMPBELL: Yes.

WITT: Let's see, I believe Representative Gaw was.

GAW: Thank you, Mr. Chair. Mrs. Campbell, these Declaration of Candidacy forms for nomination that are filled out, during the course of the filing period last or this year, how many would you have personally taken care of? If you know. I'm not asking for a specific number.

CAMPBELL: Out of the over 500, at least 150 of them.

GAW: And when you did that would you tell me what the process was for developing the Declaration of Candidate for nomination form?

CAMPBELL: First of all, a candidate would come in and sit down at one of the desks and he or she would be presented a work sheet and that work sheet was filled out by the candidate, again basic information, name, address, where they are registered to vote, what office they are filing for and the candidate always filled that out. Then we would ask if they had paid their filing fee to the party or not. If they had not paid the filing fee, then as a courtesy to the three parties we were allowed to take the filing fee for that office. If they could not produce a receipt, then we would take the filing fee and give them a receipt for that.

GAW: Before you go on, is Tim Moriarty's case on the 21st, had he paid to the party his filing fee?

CAMPBELL: No.

GAW: And there was money given, is that correct?

CAMPBELL: That's right, he gave me \$50 cash.

GAW: You received that, and that was cash. Do you know what became of that money?

CAMPBELL: No, I do not.

GAW: Go on, if you would please.

CAMPBELL: So after the filing fee was paid and the candidate would receive a receipt for the filing fee, then if I did not know the person personally, or had some reason to do so, we were told to get some form of identification. Most of those work sheets the candidate had already filled out, the bottom where it says the driver's license, that type of thing. At that point then you would take the work sheet then that the candidate had filled out and go then to the computer terminal.

GAW: Did you have your own computer that you normally worked with? Or did you sit down at any workstation that was available?

CAMPBELL: For the most part Nadine Barrows stayed at the front desk where her terminal was. Juli Rodenburg and I shared a terminal. The very first day there were three terminals that we could use, but after that it was only the two terminals and later on, I think, it became just one. But it was possible to sit down at any, but for the most part, I shared a terminal with Juli Rodenburg.

GAW: Okay, now when you sat down at the terminal, what would you, turn on the computer or probably it was already on, there would be something in front of you, you would hit a button for something to come up where you make entries, would that be fair to say?

CAMPBELL: Right.

GAW: Now what would be on the screen for you to make entries on?

CAMPBELL: Right, okay on the screen would appear, what looked like, not much different from the work sheet form, because it asked for the information, basically in the same order that's on the form. It asked first of all for, it doesn't ask, there are open field, there are spaces. The first field was for the candidate's name, the second was for the ballot name, and then the third field was the date, fourth field was, if I remember right, then the time, and I skipped to that step. Obviously before that could be entered into the computer, you had to take the work sheet that the candidate had filled out and walk over to the time clock that was in the front of, there was a little reception area and there is a table in there and that is where that time clock. You had to literally get up and walk across the front office and time it in and then you could go ahead and finish up.

GAW: Was that your standard procedure before you began the work on the computer, was to have that stamped?

CAMPBELL: Yes.

GAW: Have that work sheet stamped? And in Tim Moriarty's case prior to doing the Declaration of Candidate form, was that what you did?

CAMPBELL: On the 29th, yes. It was stamped in first, that's correct.

GAW: Before you did the Declaration form.

CAMPBELL: Well, I didn't type in the declaration form, with that information but, yes, I personally stamped it, time clocked it into on that work sheet and then it was entered into the computer.

GAW: Now who would have filled out the Declaration of Candidate for nomination form for Tim Moriarty that you later signed in April or June? Who would have done that?

CAMPBELL: The one that has my signature?

GAW: Yes.

CAMPBELL: Well, that one that I signed I am assuming is the same one that was generated on the 29th.

GAW: Did you do that one?

CAMPBELL: I time stamped it and then I handed it to Nadine Barrows and she entered the information into the computer and then that entry was then generated that Declaration form out of a laser printer that we used. If you want to say I didn't actually enter the information in but I assisted obviously in the production of that document.

GAW: But you weren't the one that entered the information.

CAMPBELL: No, sir.

GAW: Now the other exhibit, the XM exhibit that has been referred to I think earlier, the one that was produced by Tim Moriarty later, have you ever seen any distinction in the way that different people fill out these forms in the office as far as methods of doing addresses or methods of doing precinct numbers? Is there anything

that you have noticed in there that would be a form that certain individuals follow when they are filling out those numbers and addresses. In other words, let me get right to the point. The XM exhibit, has "5 precinct" the other one says "fifth precinct" on it. I'm just curious as to whether or not there was anyone in the office who would have normally just typed the number "5" into the computer rather than "5th". Was that something that you had ever seen before or that was common for anyone in the office to do?

CAMPBELL: I understand your question, and I'm sure that each one of us had some distinguishing characteristics about the way we entered that because as you say one says "5th" and one says "5." I'm sure there are ways some of us probably didn't abbreviate "Missouri" and in some cases we did, I'm sure there are distinguishing patterns.

GAW: Did you have a pattern in regard to how your forms would appear when you were typing in the precinct number?

CAMPBELL: I don't remember, but I'm sure if you came up with the documents that I did, that you would probably see a pattern for all three of us, but I don't remember.

GAW: You have seen this exhibit XM, that has the XM on it that was introduced at trial?

CAMPBELL: Well, I never saw it at trial, I briefly saw it, Mr. Lee briefly showed it to me in the prosecutor's office

GAW: Would you look that over for me, Barbara. Obviously that's a photocopy of another

document. Now is that a document that you prepared?

CAMPBELL: No. I did not prepare this document. I've never prepared any document that looks anything like this.

GAW: Now tell me what your thought process is in giving that answer.

CAMPBELL: Okay. What stands out most clearly, is that I never, ever, ever produced any document in any filing that does not have a time on it. This has no time at all. I don't know what the significance of the XM is, now the "record not found" on the date, that is baffling to me why that is there, because again, the date automatically got printed on those Declaration forms, so why it says "record not found," I have no idea. If nothing else that, I did not produce anything that looked like that. Secondly the only document that I ever signed, the only document that I ever knew about on the Declaration of Candidacy form was the one that I signed. It did not have Tim Moriarty's signature on it at the time I signed it and the form that I signed shows a date of March 29th, 1994, at 1:19 p.m. very clearly.

GAW: There has been some suggestion that we heard a little bit earlier about Nadine Barrows maintaining or maybe would maintain, would be a better way of stating it, that there was some sort of declaration form that was done on the 21st. To your knowledge, is that true?

CAMPBELL: To my knowledge, is what true?

GAW: That there was a declaration form done on the

21st?

CAMPBELL: Absolutely not, that is not true. There was no declaration form produced on the 21st, unless someone else did it. I did not produce any declaration form on the 21st.

GAW: And the paperwork that would have been placed in Ms. Barrows' desk drawer, what would that have been composed of again?

CAMPBELL: It was the \$50 cash, it was the party's receipt, that copy for the party, for that filing fee, and then the work sheet, that Tim Moriarty filled out. Those three things, that's it.

GAW: And no declaration form.

CAMPBELL: Absolutely no declaration form.

GAW: Now why did you place that in Ms. Barrows' desk? Why didn't you put it in your desk? I assume you had one?

CAMPBELL: Well, I was sitting at Nadine's desk at the time and the reason was, Nadine kept all of the supplies, and when I say supplies, there was a box under Nadine's desk, and that's where these work sheets were kept, that's where the receipts for the different parties were kept, in this box under her desk and so it was just natural to go to her desk to get it at that point in the filing. Okay, this is obviously a number of days into the filing and so why did I place it in her desk? Well, the other thing is when I was sitting at her desk the documents were completed, it just seemed logical to me that that would be the place to put it, that's where, when she would complete a filing it was placed in the front of that desk drawer. I

knew that it had to be kept somewhere, where everyone would know where it was, it was logical at the time to put it there. It was an easy place to explain to Nadine where it was kept.

GAW: Now why did you think it needed to be in a place where everyone knew where it was?

CAMPBELL: Because Secretary Moriarty had asked that it be done and be held so that when he decided to file, and I did not know if I was going to be around when he filed or who would be available, so someone else needed to know obviously, that that paper work was being held when he was ready to file.

GAW: It is your testimony that sometime in latter part of April or May that you were instructed by the Secretary of State to enter your signature on that Declaration Form dated March 29th?

CAMPBELL: That's correct, sir.

GAW: You have no doubt about the fact that she was the one that told you to do that?

CAMPBELL: Yes, she was the one that told me. No one, as a matter of fact, other than Judi Moriarty telling me to do it and Jim Kolb standing there agreeing and saying the same thing. The only other person that ever, I was ever even in contact with, would have been Gene Wiseman when he pulled the document out for me to sign. I never spoke to Joe Carroll about this issue, ever, I never spoke to Randy Sparks about it, there is no doubt in my mind that the only person to tell me to do this was Judi Moriarty.

GAW: I think that's all I have.

WITT: Representative Wible.

WIBLE: Just a question to follow up on the Declaration of Candidacy form. If someone is going to file and be on the official ballot with a nickname, how is that nickname designated?

CAMPBELL: I'm not really sure, because when we were filing candidates, it was left up to our judgment there at the Capitol office as to what was placed on the ballot name in the grey shaded area. We were told, I was told, in the presence of others, that the Elections Division would determine those individuals there, the election officials would determine the validity of a ballot name. And if there was a name that was used that was inappropriate or incorrect or whatever, they would then contact the individual and straighten it out. But it was really not our purpose or our place to question that, and part of the reason, and that goes along with the logic at least that I saw throughout the whole process, that Judi Moriarty wanted the filing to be moved back to the Capitol for whatever reason but, I understand that prior to even our training or anything else, Ms. Moriarty explained to myself, to Nadine Barrow, to Juli Rodenburg, one of the reasons that she was happy that it was being moved to the Capitol is that she knew the three of us dealt with people on a professional basis, that she wanted candidates to be taken care of, that she didn't want there to be a lot of problems, any kind of anger or people upset at the way they were treated and she knew that the three of us would take care of those situations and that we would treat people well. Following again that logic it was

understood, that you just didn't hassle people when it came to things like their nicknames or ballot names, because that was not our place. We were not elections officials. We could not decide the validity of ballot name.

WIBLE: Now as one of these forms was filled out that was exactly the way it would appear on the ballot? Is that correct?

CAMPBELL: Right, in the shaded area is the way it would appear on a ballot, but that's after, we didn't have the authority to essentially certify that name in the Capitol Office, we were not elections officials. I understood that when it went to Elections though they were the ones that scrutinized that name to see if was something that could be placed on a ballot.

WIBLE: What I'm getting at is that is sometimes this nickname separated with parentheses and at other times quotation marks. Does that depend upon who fills out the documents or is there an official position as to how a nickname should be designated?

CAMPBELL: There is no official position. It was the way a candidate filled it out.

WIBLE: And you don't recall which you used, the parentheses or the quotation marks?

CAMPBELL: As a pattern, no I don't recall. It's been obviously a number of months.

WIBLE: Thank you.

WITT: Any further questions? Mrs. Campbell, thank you very much for being present here today. We do appreciate your coming to testify. You are

excused at this time. If the committee does find it necessary to have further hearings, there may be a need to call you back at a future time and we hope not to inconvenience you.

CAMPBELL: That's fine, I'll be available. Thank you. (End of tape #16)

EDWARDS: Mr. Chairman, very briefly. As offered to the staff attorneys at the Attorney General's office at the outset of this investigation and as offered to the Cole County Prosecuting Attorney's Office, the Missouri Highway Patrol, and the Federal Bureau of Investigation, as well as the Management Review Team, I have offered on Mrs. Campbell's behalf to have her undergo polygraph examination at any time. I suspect that there is no interest on your part, but I do make that offer here to you today. If there is any interest on the part of the committee to undergo a Missouri Highway Patrol style polygraph examination, she will be gladly certainly to do that.

WITT: Has Mrs. Campbell been the subject of a polygraph examination prior to this in regard to this?

EDWARDS: After offering to everyone, so that I wouldn't have to pay for it quite frankly, I did finally have her undergo a polygraph examination at my own cost. Yes.

WITT: Okay, and what were the results of that polygraph?

EDWARDS: I could provide you copies of the polygraph, signed by the polygrapher, who is a former Highway Patrol polygrapher, were that she was told by Judi Moriarty, and I'm

paraphrasing here obviously I'm not giving you the exact question, but she was asked whether or not Jim Kolb was present in the room with Judi Moriarty when Judi Moriarty instructed her to go over and sign the Declaration. I can't remember there were a number of other issues that we figured were pertinent in this and the tracing according to the polygraph report indicated that her answers were truthful and that's available to you if you want it.

WITT: Thank you very much, if we need that we will contact you. Thank you. I believe that is all of the witnesses that I have gotten at the request of the committee at this point, that we have gotten. Mr. Brown, you indicated earlier that you wanted Tim Moriarty last evening, that Tim Moriarty to testify. Do you still intend to call him or do you want to call him at this time? Is Tim Moriarty here in the building? Is there a feeling among the committee members to call Tim Moriarty at this time? I see one head shaking yes, two, would you see if you can locate him? We will take a stretch of the legs, but try and keep all the members in the room so that we don't go running off.

WITT: Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

TIMOTHY MORIARTY: Yes, sir.

WITT: Will you state your name?

MORIARTY: Timothy J. Moriarty.

WITT: And where do you live, Tim?

MORIARTY: Sedalia, Missouri.

WITT: Did you at some point in the last year attempt to or file for State Representative?

MORIARTY: Yes, I did.

WITT: Can you describe the process that you went through in attempting to file or filing for State Representative?

MORIARTY: Yes, sir. On March 21st I came down here to Jefferson City and came to the State Capitol here on the second floor, the Secretary of State's Office and Barbara Campbell filed me in for State Representative. I filled out a candidate work sheet on her request and she inputted the information from a candidate work sheet into the computer and out came a Candidate Declaration, which I signed. Then I paid her \$50, I got a cash receipt that I still . . .

WITT: I think we have all got photocopies of that.

MORIARTY: And her signature is on here and it is dated the 21st of March. When I was down here. And after I did all of the things she asked me to do and signed my Declaration, she stood up and shook my hand and said "Congratulations, you are a filed candidate." I said, "thank you." From then my campaign began.

WITT: Now on that day you came down, when you went to the Secretary of State's office, had you made any stops before you got there, when you came to

Jefferson City?

MORIARTY: Yes, I did.

WITT: Okay, and where did you stop?

MORIARTY: My first stop was at the Information Center, here in Jefferson City.

WITT: What did you do there?

MORIARTY: Just spoke with my mother. That was about it. Then I went to the Department of Labor.

WITT: Okay, and what was the nature of your conversation with your mother at that point, do you recall?

MORIARTY: Telling her that I was down here to file for State Representative.

WITT: Was this the first time you discussed that with her or did she know that you were thinking about it?

MORIARTY: She knew that I was thinking about it prior to the 21st of March.

WITT: Did you tell her you were going to the Department of Labor at that point?

MORIARTY: Yes, she wanted me to go by there and let them know out of courtesy to them, my intentions of filing, and so on her suggestions I did go.

WITT: Okay, and who did you talk to at the Department of Labor?

MORIARTY: Colleen Baker and I went in there and asked her if she had heard any rumors about me going to run for State Representative and it kind of

caught her off guard and I told her my intentions that day were to file for State Representative.

WITT: Now were you currently working for the Department of Labor, is that correct?

MORIARTY: Yes, sir, I was.

WITT: And was she your immediate supervisor or the highest level or where was she in the hierarchy?

MORIARTY: I had one supervisor before her. She is the Director of Labor Standards, which is in the Department of Labor.

WITT: And what was her reaction to you filing for State Representative or indicating that you were thinking of filing for State Representative.

MORIARTY: Like I said it kind of caught her off guard. Caught her off guard.

WITT: Did she say was there any problem with you maintaining your employment and running for State Representative?

MORIARTY: No, she didn't. She was uncertain of that fact.

WITT: Okay, did she say that there was any problem with you retaining your employment after you were elected to be a State Representative if you were so elected?

MORIARTY: No, she was uncertain.

WITT: Okay, so she didn't know one way or the other if you could be a State Representative and still work for the State Department of Labor is that

correct?

MORIARTY: Yes.

WITT: At that point did you have any discussions with her about how you were going to find out for sure whether you could file for State Representative and still remain employed or what were you planning on doing at that point, did you have any discussions with her about how you could find out for sure whether or not you could remain employed and be a candidate or be elected a State Representative?

MORIARTY: Yes, she stated some concerns of whether or not I could keep my job or not and run for State Representative. But she didn't know, like I said, she didn't know the answer to that.

WITT: But did you indicate that you were going to try and find out for sure?

MORIARTY: No, I told her I was in a hurry to leave there because I was going to file for State Representative either way of the outcome. But it was important to me, because having a job is important, but my main goal was to file for State Representative, and that's why I drove to Jefferson City on the 21st.

WITT: Okay, so no matter what the result was going to be, you intended to file for State Representative on the 21st?

MORIARTY: Yes, I did.

WITT: After you left the Department of Labor, did you then go to the Secretary of State's office here in the Capitol Building, or did you make any other stops?

MORIARTY: That's when I came here to the second floor, the Secretary of State's office.

WITT: And was your mother there then or was she still over at the Information Center?

MORIARTY: She was at the Capitol, she was here.

WITT: And did you talk to her first or did you file?

MORIARTY: Barbara Campbell greeted me when I walked in the door, so she was the first person that I talked to. You want me to go through the events again?

WITT: Yes, basically how did it happen after you came in?

MORIARTY: Okay, Barbara Campbell, greeted me when I walked in the door, with smiles, she knew why I was there, I was going to file for State Representative. She went back and got Mom out of her office. My Mom came out and shook my hand, and said she was proud of me, then she returned to her office and I told Barbara I'm ready to go through with the filings, you know, "I want to be filed," that's why I drove all this way. That same day I had made sure I had a copy of my voter ID card. I went to the Board of Election in Independence which was about a half an hour drive from my house, prior to coming here and that's even stamped March 21st, and so I brought that with me. That's got pertinent information, your precinct, your township, and that's dated the 21st.

WITT: So you filled out the form that you were supposed to fill out and paid her the \$50?

MORIARTY: I filled out a

candidate work sheet in my own print and that, you know you put your precinct, your township, how you want your name on the ballot, where you live, all of that information and that is in your own print. I filled that out on the 21st, then I paid her the \$50, she gave me a cash receipt.

WITT: Was that document, that candidate work sheet, that you filled out do you recall whether or not that was file stamped, was put into the time clock where it stamps it with the date and time?

MORIARTY: No, I don't recall.

WITT: You don't recall one way or the other?

MORIARTY: I know I filled it out on the 21st when I paid my money and when I was here.

WITT: Did you watch her input that information into the computer?

MORIARTY: Yes, it would be at a desk like this and I was sitting by the side and the computer was right in front of her and she was doing it.

WITT: Okay, and then a document was printed out from that?

MORIARTY: Yes.

WITT: And that is the Candidate Declaration which you provided, I believe a couple of weeks before trial? That you had found just recently.

MORIARTY: Well, whenever I had found the Candidate Declaration, the day that I had withdrawn my candidacy for State Representative, it was on June 22nd, that evening I went

home to call some of my supporters, to let them know that I'd withdrawn, so they would hear it from me first, out of courtesy and then I found that original Declaration that I had signed.

WITT: Moving back to the 21st, when you got that document that was printed out, the Candidate Declaration, did you then take that in and show your mother or did you leave the office at that point or did you have any further contact with your mother at that point?

MORIARTY: Yes, I did. Barbara and Charles, her husband, after they both congratulated me they went back and got Mom and pulled her out of her office and it was kind of a happy time. Really it was the first time I had ever filed for any public office.

WITT: What time of day was it?

MORIARTY: It was about 4:30 in the afternoon.

WITT: Did you and your mother go out to dinner that night or do anything further or did you leave at that point and head home?

MORIARTY: We went out to dinner.

WITT: Okay, did you discuss with your mother, the problems with the Department of Labor and whether or not you could keep your job at that point?

MORIARTY: Not that I really recall, no we were, it was more a celebration of me filing and my candidacy, because that was my choice was to file. I was, if it took me giving up my job, I was going to do that, because I wanted, I really did not have

that great of a desire to keep that job anyway. I gave it up a month prior to the August election, thinking I was still running or a viable candidate, I gave it up and, so I wanted to run. That was my heart's desire was to be a candidate, that's why I came up here in person on March 21st.

WITT: Okay, now there was a subsequent Declaration of Candidacy that was printed out and the date on that was March 29th. Did you at some time later, were you here in the Capitol Building on March 29th to sign that document?

MORIARTY: No, no.

WITT: Is that your signature on that document that is dated March 29th?

MORIARTY: Yes, it is, on the second Declaration you mean?

WITT: Yes, and what date did you sign that document?

MORIARTY: Sometime in May. I was requested to sign another document when, I thought that I had already filled out all of the information. I knew I had signed it, I just couldn't find that original Declaration.

WITT: So you were positive at that time that you had signed it?

MORIARTY: Yes, but on their request.

WITT: Whose request was that?

MORIARTY: Some one in the Elections Division.

WITT: Do you recall who?

MORIARTY: No. No, I don't.

WITT: Man or woman?

MORIARTY: No, I don't really remember who it was.

WITT: Was this a phone call that you got at home or at work, or a letter that you received, how did you know that you needed to come down here and sign a document?

MORIARTY: I received a message on my recorder that there was something needed with my filing, but they stated, but I had already filled out one on the 21st, was the thing.

WITT: So you drove down to Jeff City some time in May and then signed the document that was actually dated March 29th, is that correct?

MORIARTY: Yes, it is.

WITT: If you had actually filed on the 21st, why were you signing a document dated the 29th, that showed you filing on that date?

MORIARTY: Because they requested it, because my desire was to run for State Representative. If they would have . . .

WITT: Did you question it?

MORIARTY: No, I didn't. But if they would have told me not to fill out a candidate work sheet I wouldn't have, if they had told me not to pay them \$50, to pay them \$25, that's what I would have done. Whatever they were requesting is what I was willing to do because I wanted to run for State Representative. That's why I drove down here on the 21st.

WITT: When you came down in

late May to sign the document dated March 29th, who was present when you signed that document?

MORIARTY: Which one now?

WITT: The one dated the 29th.

MORIARTY: Who was present?

WITT: Who was present when you signed that document?

MORIARTY: Someone in elections, the Division of Elections

WITT: Were you in the Capitol or in the Information Center?

MORIARTY: It's in the Information Building.

WITT: Was Barbara Campbell's signature at the bottom of the document, when you signed it?

MORIARTY: Yes, it was already on there.

WITT: And do you recall who it was over in Elections in the Information Building that was present when you signed that document?

MORIARTY: No, I don't.

WITT: Do you recall if it was a man or a woman?

MORIARTY: No, I don't. If I may, I don't know if this has been pointed out, but if you got a copy of my candidate work sheet and then if you would look at the first candidate declaration.

WITT: The candidate declaration that has your signature but not Barbara Campbell's signature, is that correct?

MORIARTY: That's the one that I'm saying that I filled out that was produced on the 21st. Yes, that one. If you would look at that, where it says candidate's name in the grey area, it says Timothy J. (Tim) in parentheses Moriarty, that matches the candidate work sheet. But then if you would look and the address matches the work sheet. RT. 4 which is my address and that is exactly how I wanted it on there and that's how they are supposed to do. They are not supposed to omit or change anything, but then if you look at the second declaration, Timothy J.

WITT: The one that has both signatures, the one dated the 29th?

MORIARTY: The one dated the 29th. My name is in parentheses and that is changed and that is different from the work sheet. The first one, the one when I was here on the 21st matches the candidate work sheet, because I filled the candidate work sheet out on the 21st, both at the same time, even though the work sheet is filed stamped the 29th. It was filled out the 21st.

WITT: And it was sometime in May that you came down and signed the document dated the 29th?

MORIARTY: Yes.

WITT: At what point did you realize there may be some further problem with your signature on that document or your filing for office?

MORIARTY: How do you mean, in what aspect?

WITT: After you signed it in

May, I imagine you thought everything was fine and there wasn't going to be any problem and then later some time somebody contacted you or your mother called you or somebody said there is a problem, they are investigating it, how did that arise?

MORIARTY: I remember this way, on June 6th, I'd like to say, the Campbells gave me a \$100 donation out of their personal account, Mr. and Mrs. Charles Campbell, is how the check was, for my campaign and he asked if I wanted it personally or not, and I said, "I want it for my campaign." So he gave me \$100, on June 6th. Seven days later, then they start making allegations. So that's how I heard about it, that's how I kind of remember the dates. Because seven days after they gave me the \$100, that they tried, the woman that filed me in that gave me money was helping me, tried to then say she didn't file me in correctly.

WITT: And then after that point, that you found out there was problem at what point did you appear before the Grand Jury?

MORIARTY: You mean what date? What date did I appear before the Grand Jury?

WITT: Was it before or after you withdrew from office that you appeared before the Grand Jury?

MORIARTY: I withdrew before I appeared before the Grand Jury, as I recall it.

WITT: Do you recall the date that you withdrew from office or announced that you were not going to . . .

MORIARTY: Yes, June 22nd. That's the night that I found the copy of the first declaration.

WITT: Now on June 22nd, when you decided you were going to withdraw or not run for State Representative, did you issue any kind of a press release?

MORIARTY: Yes.

WITT: I've got here a document from the trial, is this the press release that you released, can you tell?

MORIARTY: Can I read it?

WITT: Is that your signature at the bottom?

MORIARTY: No. It's not a signature. It says statement made by Tim Moriarty.

WITT: Is that a statement you made or a press release that you issued?

MORIARTY: It is a statement that I made.

WITT: And who did you make that statement to?

MORIARTY: Whoever was listening at the press conference.

WITT: Oh, you had a press conference, you made a statement at the press conference, is that right? I was trying to figure out if this is an investigation statement or . . .

MORIARTY: It was just a statement of me withdrawing my candidacy.

WITT: And did you prepare this in writing?

MORIARTY: No, somebody prepared it for me.

WITT: Did you read this at the press conference?

MORIARTY: I read it aloud at the press conference.

WITT: It says in here "I did not sign my candidate declaration page when I appeared in the Secretary of State's Office during the filing period," is that right?

MORIARTY: The second one.

WITT: No, it says here, "I did not sign my candidate declaration form when I appeared in the Secretary of State's office during the filing period." Is that right?

MORIARTY: No, I'm saying that's not correct regardless of what it says. I signed it. That is a very confusing point to bring up because they called and told me that I need to sign one, but I had already signed one. I just couldn't recall at that time and I couldn't find that first one until that evening, after I had said that, they called me and said you need to sign this second one, so I'm like okay, so then that was in May so that was before this date of June 22nd.

WITT: So in May you went down, you signed the declaration that was dated March 29th?

MORIARTY: Right, the second one.

WITT: And sometime within a couple of weeks after that there were allegations made that some, that you had not properly filed and you were aware that there may be some problems. And then in June you withdrew from office and made this statement or announced that you were not going to continue to seek office. Why is it that you

didn't find the declaration until after that? I would think that would be kind of important to be looking for when there was investigation into your filing.

MORIARTY: Yes, I agree with that, it was very important. But the fact that I didn't find it until that evening. I finally located, I dug . . .

WITT: Where was it?

MORIARTY: It was in a paper file briefcase of mine and it was in the very back. After I had called all my endorsements that evening, trying to let them know before the press let them know, out of courtesy, I found that. And as soon as I found it then I brought it to light, brought it out. Why would I, why in the world would I want to withhold that. I didn't know I physically had it until I physically found it again. I had only looked at it that one time on the 21st, folded it, put it away, never looked at it again.

WITT: You talked to your mother on March 29th, which is the last day for filing, and asked her, at that time whether or not everything had been done properly and whether or not you were properly filed, is that correct?

MORIARTY: Something to that extent, yes.

WITT: And she called you back and told you everything was all right, is that correct?

MORIARTY: Well, it was in the same conversation, she just assured me that I had filed.

WITT: Okay, to your knowledge she didn't go check on anything, she told you, "Yes, you are fine."

MORIARTY: I don't know what she did.

WITT: Did you have any conversations with your mother about the need to come back down and sign what you believed that the declaration dated the March 29th? That there was problem with your filing and you had to come down and sign an additional declaration of nomination?

MORIARTY: Not that I recall, no.

WITT: So you didn't call her and say, "Mom, what's the problem? I got this message from the Secretary of State's Office and says that I'm not properly filed and I have to come sign another document." You didn't discuss that with her at all?

MORIARTY: That's right.

WITT: Did you talk to her at all that day?

MORIARTY: Not that I recall.

WITT: Did you talk to her within a few days after that about having to come down and sign it?

MORIARTY: Probably so.

WITT: Do you recall what her response was?

MORIARTY: Not really, shock I guess, because I was here on the 21st, what did happen to this original piece of paper, that's been a question of mine all along. What happened to it?

WITT: But you never questioned when you came back down the date, that was dated the 29th when you originally intended to file on the 21st and

believed that you were fully filed on the 21st?

MORIARTY: No, I didn't question anything, because I went to them, I am at their mercy, whatever they want me to do, whatever it took for me to be a candidate, that's what I was going to do. If they wanted me to sign a blank piece of paper declaring I was a candidate, I would have done it. That's just an example, I would have paid \$100 if that's what they would have said. Whatever the filing fee, whatever they said, that's what I was trying to do. I was just trying to accommodate them, so that I could achieve getting on the ballot. I met all the requirements.

WITT: Are there any other questions? Representative Shelton.

SHELTON: Let's go to day that you say you filed with Barbara Campbell. When you came in the door she greeted you and told you to sit down to have a seat. How long did you sit there at her desk?

MORIARTY: You know, it wasn't a long period of time, half an hour at the most. It's not a lot of paperwork.

SHELTON: Do you notice did she ever get up and walk across the room.

MORIARTY: Who, you mean Barbara?

SHELTON: She stayed in her seat?

MORIARTY: Well, she made a copy of the Declaration after everything had taken place, then she made a copy of this declaration and gave it to me so

that at that time everything was done. She had to get up to make a copy, but other than that she was right there.

SHELTON: Did you ask for a copy or did she automatically give you one?

MORIARTY: No, I didn't ask for one, she just gave me one.

SHELTON: Did you look at it at that time?

MORIARTY: Yes, I believe she asked me to make sure that was how I wanted my name on the ballot.

SHELTON: Did you notice if her signature was or was not on the document?

MORIARTY: No, no, I didn't. Let me clarify that. She asked me to look at the original one. She gave me the copy so I wasn't looking at the copy I was looking at the original one, when she said check it on the ballot name or how you want it on the ballot.

SHELTON: Were there any other people in the office?

MORIARTY: Yes.

SHELTON: Were they employees or people filing?

MORIARTY: I recall some employees being there.

SHELTON: Did you ever see her put your paperwork in a desk or take it some place?

MORIARTY: I thought she put it into the bottom drawer of her desk, but I just, I remember all the proceedings that took place physically when I filed, the things that I filled out, the transaction of my \$50 I gave her,

the receipt that I received, her inputting that into the computer and out coming an official declaration and her instruction to me to sign that, exactly the way my name is on the ballot. Timothy J. Tim parentheses Moriarty. I would never sign my name that way, I would sign it Tim Moriarty or however I sign my checks, so upon her instruction I signed that document, "Timothy J. (Tim) Moriarty."

SHELTON: Okay, when you received the phone call, saying that you had to come back down to sign some additional papers, did you call your Mom and talk to her about it?

MORIARTY: No, sir.

SHELTON: The message was on your answering machine.

MORIARTY: Yes.

SHELTON: You talk to your mother frequently?

MORIARTY: Yes, I guess you could say that.

SHELTON: But you had a message about your filing, but you didn't call her?

MORIARTY: No, sir.

SHELTON: To ask any questions?

MORIARTY: No, sir.

SHELTON: Did you come down on that day or the next day?

MORIARTY: That same day.

SHELTON: To the State Information Office.

MORIARTY: Yes.

SHELTON: You went to the first floor or the second floor?

MORIARTY: The Elections Division, I think it was on the third floor.

SHELTON: Did you walk up or take the elevator?

MORIARTY: I don't recall.

SHELTON: Well, when you got there what did they say to you?

MORIARTY: Just

SHELTON: You had to ask for somebody, you had to be looking for somebody (End of tape #17) or you had to be going to an office for a reason.

MORIARTY: Yes.

SHELTON: Why did you go to the Elections Division? Was that what was on the answering machine?

MORIARTY: Yes, sir, it was.

SHELTON: And when you went up there, is there a sign that says Elections Division?

MORIARTY: I believe there is, something to that effect.

SHELTON: So you said, "I'm Tim, I'm here to straighten out my papers."

MORIARTY: Yes. The instruction that I received was that I needed to sign my name on a certain document; that was it. I came in there, signed my name and I left, it was very simple.

SHELTON: Tim, who did you see to take care of that?

MORIARTY: I don't recall the

person that actually allowed me

SHELTON: You came all the way from Sedalia,

MORIARTY: From Lake Lotawana, at that time.

SHELTON: for a very important meeting to sign a document and you can't recall who you saw. Was there a secretary there to greet you when you came in?

MORIARTY: Somebody was there, I don't recall who it was, sir.

SHELTON: You don't recall who handed you the document, saying "This is what you need to sign," you don't know if it was a man or woman?

MORIARTY: That's correct.

SHELTON: How long were you there?

MORIARTY: About a minute.

SHELTON: Did you see one person or more than one person?

MORIARTY: I don't remember

SHELTON: And after you did that did you come back up to the Capitol?

MORIARTY: I went back to Lake Lotawana. I lived at Lake Lotawana. That's the District I was running out of or going to attempt to run out of.

SHELTON: The people you worked for at the Department of Labor, in their offices, did they ever document or did they have a policy or procedures for employees, personnel policies?

MORIARTY: As to what effect,

what scope of personnel policies?

SHELTON: Usually in most offices they have a personnel book that tells you what you can and cannot do, tells you about your sick leave, your vacation leave, what the rules of the office is.

MORIARTY: I don't know.

SHELTON: When you talked to Colleen, did she indicate that she was going to check the personnel manual to see if there was going to be a conflict with you running for office? The Hatch Act, or some other law?

MORIARTY: Well, yes, at that time she went to Sandra Moore, who is the Director of the Department of Labor and told her about it right when I was there. She wasn't sure. She was unsure.

SHELTON: They never did produce a document saying that you could or could not run for public office while you held that job.

MORIARTY: They never said that I could not run for office. That is why I came down all that way, was to file. I gave that job up in order to further my campaign, I thought. It was like a month before August or sometime like that, prior to the election. And then, all of this came out that Barbara was trying to say that I wasn't properly filed, when it was her duties, I feel, to file me correctly and why would she shake my hand and say, "You are a filed candidate," and, "Congratulations," and, "Anything that I or my husband can do to support you in your campaign, we are willing to do that." And they did numerous

things. Charles Campbell did a press release for me. They took my picture. They, you know, you couldn't hardly stop them from doing something for you. They wanted to do more and more and more and . . .

SHELTON: And they really helped you, didn't they?

MORIARTY: Yes.

SHELTON: You know the problem is that we have, Tim, is that declaration that you say is the one that you found in your briefcase.

MORIARTY: Did you compare it with the candidate work sheet and see the exact same on the address and on the name?

SHELTON: Yes, we looked at that, but that's not our problem before this committee. First of all, it doesn't have a signature from the Secretary of State's Office at the bottom.

MORIARTY: Yes, sir.

SHELTON: The other thing is that we heard testimony this morning that this information here, "record not found", I think the prosecutor indicated that the only way that this would come up on this form, that it would have to be done, I believe, he said on the weekends or at sometime when the office was not open.

MORIARTY: Is that so?

SHELTON: Yes, that's what he told us.

MORIARTY: Well, what day of the week does March 21st fall on? I don't know. I think it was around the middle of the week.

SHELTON: Okay, that's another problem, this doesn't have a date on it.

MORIARTY: Is that my fault?

SHELTON: I don't know whose fault it is. I'm just saying, you said you found this in your briefcase.

MORIARTY: Well, I can't operate those computers and I can't punch the things that come out on that declaration on there. That, in all respect, that was Barbara's job, to make sure that that was punched in, you know. That was the first time that I had ever filed. I didn't, all she said was check your name on there and to sign it that way. If I was supposed to look for a certain day or date, I guess, I'm at fault there but I didn't know that that was my responsibility.

SHELTON: I'm not saying I am faulting you or this committee is faulting you, I'm saying we question this document, as to its legitimacy.

MORIARTY: I didn't produce it, she copied it. She gave it to me on the 21st, that's about all I can say about it. I've said the same thing over and over. My testimony, you can check any of it, they all agree, because my story has not changed one time.

SHELTON: Let me ask you another question. If you thought you had filed properly and all the paper work was in, why did you withdraw from the race?

MORIARTY: Because the Attorney General told me to and I pleaded with them over in their office and cried about, because it really did hurt me, because it was my heart's desire to run.

SHELTON: What was his rationale for telling you to withdraw?

MORIARTY: I don't know.

SHELTON: Did he write you a letter, did he just . . .

MORIARTY: He verbally told me.

SHELTON: Was it the Attorney General or somebody from his staff?

MORIARTY: Assistant.

WITT: Did you discuss with Barbara Campbell when you went into Secretary of State's Office on the 21st, the possibility of holding your filing?

MORIARTY: It was only a discussion, but then I said I want to be filed then, let's do it.

WITT: But you did discuss the possibility of holding your documents? Is that correct?

MORIARTY: Yes, sir. She said she wasn't sure she was willing to do anything, to try anything, but she wasn't sure and, I said, "Okay, I have come all this way, travelled all this way, here is my \$50, I'm ready to file," and I filled out that candidate work sheet, then I signed my name and then she congratulated me and we went ahead, there was no holding back.

WITT: But you did propose that possibility to her that you were at least considering that?

MORIARTY: That was what I just said.

WITT: You said earlier that when you came to Jeff City, come hell or high water,

whether you lost your job or not you were intending to file, why was it even a possibility to, why was it even a possibility to hold your filing pending, why were you even asking that question?

MORIARTY: Just curious.

WITT: Any other questions? Representative Wible.

WIBLE: Mr. Moriarty, this was your first campaign for political office?

MORIARTY: Yes, it was, it was the first time I ever filed for anything.

WIBLE: I'm trying to recreate in my mind what happened and how you must have felt as you came to file. First of all, being the son of the Secretary of State, I would think this would be a pretty newsworthy item that you were filing for office. And I would think that you would be pretty excited about it. Was this an open seat?

MORIARTY: No.

WIBLE: You were filing against whom?

MORIARTY: An incumbent.

WIBLE: And who was the incumbent?

MORIARTY: Representative Hall. But I had opposition in the Democrat side too, it wasn't like it was going to be an easy ride. I had an election that I would have had to won.

WIBLE: When you came here on March 21st, who else was on the ballot for that particular seat?

MORIARTY: Linda Layne, and

Glen Hall and Bob Keith. I always forget his name.

WITT: If you're gonna testify you are going to have to be sworn.

WIBLE: Those were the only ones on the ballot at the time then?

MORIARTY: That's what I recall, yes.

WIBLE: So when you decided, is it, I'm trying to understand, had you decided before you drove here that day that you were filing that day?

MORIARTY: Yes, ma'am.

WIBLE: And yet you had a little bit of a question about it while you were filling out the forms that you brought up to Barbara Campbell, that possibly these documents might be held while you made a decision?

MORIARTY: No, it was just a question that I proposed. I went by the Department of Labor that day and I wasn't even going to go by there, but on suggestion of family and friends, out of courtesy I did, because I figured that they would try to discourage me from running, from something that I desired to do, but then I went ahead and went by and talked with them. It was weighing on me, I guess you could say, because I was concerned because I wanted to do things right and I also wanted to do what I wanted to do and this was my door of opportunity I thought and that's why I proceeded, that's why I drove all over the country, from Lake Lotawana I drove 45 minutes to Independence and back to Lake Lotawana, then to Jeff City, here and there, and finally ended up

in the Secretary of State's Office which was my goal all day long and that's, I was gonna file. I had done all this other things preceding up to this event, that day, my ID card is dated the 21st of March.

WIBLE: How does the media treat state legislative campaigns in your area, do they give them much attention?

MORIARTY: Not as much attention as all this is getting.

WIBLE: But do they show some interest at least initially when people are becoming candidates?

MORIARTY: All I can speak for is myself, and they didn't for me. I had a press release.

WIBLE: When?

MORIARTY: March 21st, Charles made up a press release for me, Charles Campbell did. Later that week, like a day or so after, I took it by and tried to get a friend to give it to the Kansas City Star, because they knew someone there. But it never got printed. No paper ever printed it.

WIBLE: Do we have a copy?

MORIARTY: Yes, it was entered as evidence at the trial. Do you all have a copy?

WITT: I don't think we do.

MORIARTY: There were two different ones that he made me and it was on his request. Charles wanted to do that. They wanted to do everything they could. You couldn't hardly stop them.

WIBLE: Okay, I want to keep on this line question about the

media if I could. When I filed for office against an incumbent, I went around to various radio stations and announced my candidacy and I announced it to the local television stations, prior to even coming to Jefferson City to do my filing. There was quite a bit of coverage that way. Was there any one part of the media that picked up on your filing on the 21st or before the 21st of March?

MORIARTY: No, but after the 21st there wasn't either, so there wasn't any before or after or after any date after there still wasn't. There wasn't any on the 29th, there wasn't any the 30th, there wasn't any in May. The only media coverage there has been for me has been this controversy here that was created. I never had any coverage on either declaration or any date. Ever.

WIBLE: How many people did you take the press release that had been prepared, where did you take that and attempt to . . .

MORIARTY: I tried to get it put into the Kansas City Star. I don't think there is one T.V. station up there that puts somebody that's running for State Representative when they file on T.V.

WIBLE: How about any of the radio stations, ever mention it or the newspaper doesn't even put a little byline in?

MORIARTY: I took it to the newspaper but, yes, they had put some people's in but they didn't wish to put mine in apparently.

WIBLE: When the newspaper prints something about the new filings or the people who have

filed, even if it's just a sentence or two, don't they usually acknowledge that someone has filed for an office?

MORIARTY: You would think so.

WIBLE: Do they in other races? Did they in your opponents' races for example?

MORIARTY: No, not that I recall.

WIBLE: So you don't think when Linda Lane filed that there was any recognition of that by any of the media?

MORIARTY: Well, I never seen any of it.

WIBLE: As you know outside of the Secretary of State's Office there is a list that is published daily of the candidates that have filed. We refer to it around the Capitol here as the "wailing wall" and we incumbents go and check that wall daily to find out if anyone has filed against us and it's a pretty popular thing. It's very much discussed each day during the filing period and it holds a great deal of interest for just about everyone in and around the Capitol Building. I am wondering, did you ever ask anyone to look at that to see your filing, your name on the wall, after you filed?

MORIARTY: No.

WIBLE: Did any one ever between March 21 and March 29, did anyone other than the media approach you and say, "Gee, I see you've filed for State Representative?"

MORIARTY: They didn't approach me. I approached other people in the Capitol that

night after the 21st when we were leaving, I was going around telling everybody. I told several representatives that I had filed and other people that I had filed.

WIBLE: Specifically, do you recall who you told?

MORIARTY: I went to the Speaker's office that day and was seeking his support.

WIBLE: Did you tell the Speaker you had filed for office that day?

MORIARTY: Yes, I was seeking endorsements, trying to gain endorsements, even when I was walking out of the building I was telling everybody and writing names down. I had a note pad. People were encouraging me.

WIBLE: When did you first start to receive endorsements?

MORIARTY: When did I? You got individual endorsements and then you got political organizations.

WIBLE: The first person that comes forward and either agrees to endorse you publicly or give you a check for your campaign, is usually something that is prominent in your mind, especially in your first campaign, who would you say that would have been?

MORIARTY: That's the first time that's been proposed to me for me to recall that. There are so many numerous endorsements that I had. I was gaining a lot of them. You know somebody gave me the money to file that day and that's really the first money I received.

WIBLE: And who was that?

MORIARTY: Gary Dey gave me \$50.

WIBLE: And where does he live, what town?

MORIARTY: Right here in Jeff City, because I saw him on the day of the 21st up here in Jeff City and he gave me that money.

WIBLE: Was that before or after you went to the Information Center?

MORIARTY: It was while I was at the Information Center.

WIBLE: Was your mother present?

MORIARTY: When he gave me the money? I don't recall, I don't think so. I told her that he did or something to that effect and I had a few other endorsements. I was gaining quite a bit of support, I felt, I was very encouraged.

WIBLE: And when did you open your official campaign committee?

MORIARTY: I don't recall the date.

WIBLE: But your first contribution was on March 21st?

MORIARTY: Well it was a loan to pay my filing fee. He gave me money to pay my filing fee.

WIBLE: A loan? So did you repay that?

MORIARTY: Yes.

WIBLE: Was that by check or cash that you received it?

MORIARTY: Cash. Then if you look at my receipt, do you have a copy of that official receipt?

WIBLE: Yes.

MORIARTY: It says on that I paid cash and it was a \$50 dollar bill.

WIBLE: And when you repaid the loan was that by check or cash?

MORIARTY: Cash.

WIBLE: Do you recall when that was?

MORIARTY: No.

WIBLE: So that wasn't a contribution. When was your first contribution received?

MORIARTY: I don't recall, really. That's the one that sticks in my mind the most, so with the filing.

WIBLE: And you don't recall when you opened your committee?

MORIARTY: The date? No, I don't recall the date, I'm not sure of it. I'm sorry.

WIBLE: Is it safe to assume that what you are saying is that you did not receive any contributions prior to March 21st?

MORIARTY: For my campaign? I'm not sure, I haven't researched that or looked. I received some contributions really close to that date, I'm not sure. I remember one of my aunts giving me some money and it was really close to that date, so I can't say for sure, unless, I - my bank they microfilm every check that you deposit and I could get that.

WIBLE: Were you at the time aware of the laws within so many days that whenever you

begin to announce your candidacy or begin to collect money that you have to establish this committee?

MORIARTY: Not really, that was the first time I had ever filed. I didn't have any money built up for running. I didn't pay anybody to be on my campaign. It was all on my shoulders.

WIBLE: That's not the question. The question is, if you began to receive contributions or you announced your candidacy, the laws require that you have a limited period of time in which to establish your campaign committee.

MORIARTY: And was I aware of that and I said I'm not sure. I wasn't aware of all the laws pertaining to things like that.

WIBLE: Do you recall when you became aware?

MORIARTY: No, not really, the exact date? No.

WIBLE: Did you get a packet when you filed for office?

MORIARTY: Yes, I did, but there was some adjustments, but you don't ever get the adjustments with the packets.

WIBLE: Adjustments?

MORIARTY: Yes, to the laws, and to the deadline filings, and the dates, so it was very confusing.

WIBLE: But what did you receive the day you filed?

MORIARTY: Some packet, like you're saying.

WIBLE: But what did it have in it?

MORIARTY: A book telling you of the deadlines and when you need to do certain things.

WIBLE: Did you ever go over that with your mother? In terms of trying to help you understand some of the things that you would be responsible to do?

MORIARTY: Not really, like getting the packet out and going over it, no we didn't do that, not at all.

WIBLE: Did you read it?

MORIARTY: I tried to, yes, What I recall, I did.

WIBLE: When?

MORIARTY: After I filed sometime, I don't remember.

WIBLE: A day or two, that day?

MORIARTY: I'm not sure.

WIBLE: Did you have a, I'm sorry, if I have asked this, but I can't recall, when you said you know when you established your committee or you don't know?

MORIARTY: I don't know the date. No.

WIBLE: Who was your treasurer?

MORIARTY: Joyce Moriarty.

WIBLE: And what relation is she?

MORIARTY: Sister-in-law.

WIBLE: You went that night to celebrate your filing. This was the testimony of your mother that you went to eat's for dinner?

MORIARTY: On the 21st of

March, yes.

WIBLE: Now she is extremely well known in this town, obviously, so I would assume that she saw quite a few people that she knew that night, is that correct?

MORIARTY: I don't know.

WIBLE: You don't recall whether people came up to her and said "Hello."

MORIARTY: No, not really, we were kind of alone, back in the back part of the restaurant. I remember seeing one individual that worked for the Department of Labor in there that night and I remember him. I don't know if he remembers seeing me, but I remembered him.

WIBLE: And he was your acquaintance versus your mother's acquaintance or did you both know him?

MORIARTY: Mine, my acquaintance.

WIBLE: Did you announce to him your candidacy?

MORIARTY: I don't believe so. I was eating dinner, he was in the bar.

WIBLE: Did either of you see anyone as you were coming into the restaurant or leaving the restaurant that evening that would have said "hello," maybe had a small conversation with, and is there anyone during that evening that you two were out celebrating your new filing that you told about it?

MORIARTY: Marie Gladbach. She was with us. She knew about it and she knew why we were there, because I wanted to

go to dinner there and I had never been there, that was the first time I was ever there.

WIBLE: And who is Marie Gladbach?

MORIARTY: A friend.

WIBLE: From where?

MORIARTY: From Jefferson City.

WIBLE: A friend of your's or your mother's or both?

MORIARTY: Both. She is also employed for the Secretary of State's Office and she witnessed us there that night also, being in the Capitol on March 21st with Barbara filing me as did probably other members of her staff that probably who already testified at other hearings and proceedings. That's all documented.

WIBLE: I just want to ask you about a little different area here. You withdrew, you formally withdrew on the date of the press release which was June 26th, is that correct?

MORIARTY: 22nd, and that's the evening that I found my original declaration.

WIBLE: You found the declaration before or after this press release.

MORIARTY: After.

WIBLE: After the press release. This was daytime, that was evening when you found it?

MORIARTY: Yes, I went home, calling back my supporters after I withdrew and when I was about at the end of all the lists and all the paper work, lo and

behold, here it was folded up in a date book. 'Cause I went through everything, looking for people's numbers desperately trying to call them back to let them know.

WIBLE: You withdrew from your employment or resigned from your employment because you were running for State Representative, is that correct?

MORIARTY: Yes ma'am. (End of tape #18)

WIBLE: And that was your desire, to be a State Representative, and because you thought there might be a conflict with your employment you went ahead and resigned your employment so that you could continue to run for State Representative.

MORIARTY: Yes, my true desire was to run for State Representative. That's what I wanted to do, to run for State Representative. The job at the Department of Labor was pretty difficult and I was wanting to run for State Representative above all and I still do. There wasn't anybody else putting that into my mind, I made that up myself, that was my decision.

WIBLE: And that is what precipitated your resignation and your resignation was on what date?

MORIARTY: I don't recall the date, it's documented, I'm sorry I don't.

WIBLE: You called back on the 29th, I believe you testified to that, is that correct, you called your mother on the 29th?

MORIARTY: Yes.

WIBLE: And the purpose of that call was?

MORIARTY: Just to see how she was doing, to talk to her.

WIBLE: Did I not hear you say you asked something about your filing?

MORIARTY: Yes.

WIBLE: Now what did you ask?

MORIARTY: If everything was okay with it.

WIBLE: And why would you question that?

MORIARTY: Just concerned, I'd never filed before. I wanted to make sure everything was okay with it. I think that's kind of natural, if this was my desire.

WIBLE: What time of day was it?

MORIARTY: I don't recall.

WIBLE: When you asked that question what did you suspect? I can't, I'm trying to find any reason that you would have thought there would be cause to question whether everything was all right.

MORIARTY: Like I said, it was just a question, that I wanted everything to be okay with my filing, because it was my desire.

WIBLE: But I thought that when you had left here on the 21st that Barbara had shaken your hand and said, "Congratulations you are a filed candidate," and that you were going around announcing it and that you fully believed that you were.

MORIARTY: Yes, that's right.

WIBLE: And, yet eight days later you were calling back questioning whether everything was all right.

MORIARTY: Like I said the reason of the call was personal in nature and seeing how my Mom was doing and while I had her ear on phone because she is busy, that office takes her all over the state, her duties, I asked her, "Is everything okay with it?", because I had never filed before.

WIBLE: And when you got a copy of the declaration of candidacy, you said Barbara Campbell made that copy for you on the 21st when you filed?

MORIARTY: That's right.

WIBLE: Without your requesting it?

MORIARTY: That's right.

WIBLE: Where did she make the copy?

MORIARTY: Right there in the office.

WIBLE: Right across from the desk.

MORIARTY: Wherever it was, I don't know.

WIBLE: Did you watch her make the copy?

MORIARTY: I don't really recall. She made a copy and gave it to me. I wasn't really, I had already filled out my paperwork and done everything so, I didn't think I had to watch her make a copy of the declaration.

WIBLE: But you didn't bring anybody with you that day when

you came to file?

MORIARTY: No, like I stated, I had no one paid for my campaign.

WIBLE: You didn't bring a friend along to help you enjoy that special day.

MORIARTY: No, I didn't, unfortunately. If I had it to do over again, I probably would have videotaped the whole thing.

WIBLE: Thank you, I'm finished, thank you, Mr. Chairman

WITT: Representative Gaw.

GAW: Thank you, Mr. Chair.

GAW: Tim, who was your immediate supervisor with the Department of Labor

MORIARTY: Jim Boeckman or Colleen Baker.

GAW: In what order?

MORIARTY: Jim Boeckman. Colleen Baker.

GAW: So Colleen was above Jim.

MORIARTY: Jim was the assistant; Colleen was the Director.

GAW: Where were their offices?

MORIARTY: Department of Labor.

GAW: Where?

MORIARTY: Second floor. I don't know the room numbers. They are in the Division of Labor Standards. One is when you walk in the door to the left and . . .

GAW: Where, where is that building at?

MORIARTY: Truman Boulevard.

GAW: Here in Jeff.?

MORIARTY: Yes.

GAW: Truman Building or Truman Boulevard. Where is that located at?

MORIARTY: Do you know where the mall is? Right down the road from there.

GAW: Now where was your office at, that you worked out of?

MORIARTY: Out of my home.

GAW: And that was where again?

MORIARTY: Lake Lotawana.

GAW: When did you move to Lake Lotawana?

MORIARTY: April of 93.

GAW: April of 93, and you lived there from April of 93 all the way up till when?

MORIARTY: Just about couple of weeks ago three weeks ago.

GAW: Then you moved back to Sedalia?

MORIARTY: Moved back to Sedalia right now and I'm helping my Mom, keeping an eye on her.

GAW: When you registered for the first time in Kansas City or Lake Lotawana, when is that the day you filed or say you filed?

MORIARTY: "Inaudible" filled that out on March 21st.

GAW: Can we pass that around, then you all can see it, because they need you at the mike.

MORIARTY: See I had to drive to Independence to the Election Board that morning to get it. That's about 45 minutes to the west of Lake Lotawana, northwest, then I drove back to Lake Lotawana, where I ate lunch and then came on down to Jeff City to file. But that morning I went to the Board of Election to get that because that's got my precinct my township, all that pertinent information that you put on the candidate work sheet.

GAW: Did you have any occasion to vote in another location, prior to Kansas City?

MORIARTY: No.

GAW: Never voted in Sedalia?

MORIARTY: What do you mean did I have the occasion to vote? Have I ever voted in an election? Yes I have.

GAW: Where did you vote prior to that time?

MORIARTY: Pettis County.

GAW: Do you remember the last time you voted there?

MORIARTY: Not really, probably the last Presidential election.

GAW: You wouldn't have voted in any local elections after that, that you know of?

MORIARTY: No, I don't believe so.

GAW: Now when you came to Jefferson City, you went to talk to Colleen first, is that correct?

MORIARTY: First, I went to the Information Center, like I've already stated, which is right down the road from here, that's where I went first.

GAW: And what was your purpose in going there again?

MORIARTY: Just to see my Mom.

GAW: And then you went to see Colleen? Is that correct?

MORIARTY: Yes.

GAW: When you went to see Colleen, you had a discussion with her about the consequences of you filing for office, is that correct?

MORIARTY: Say it again?

GAW: When you went to see Colleen, you had a discussion with her about the consequences of you filing for state representative, is that correct?

MORIARTY: Yes, I told her my desire to file for State Representative. That's why I drove down there.

GAW: Did you ask her the consequences of your filing for that office?

MORIARTY: No, I didn't propose that question to her.

GAW: You did not make any inquiry of her for her to find out for you what the consequences of filing for that position would be?

MORIARTY: No, that was more her inquiry, not mine.

GAW: So if she said you asked her about that then she's not telling the truth?

MORIARTY: What?

GAW: She says you asked her about what the consequences were of you filing for that office, the concerns that might exist of you continuing your employment there, would be?

MORIARTY: No, what I'm saying is that she's not telling the truth. I went to her office and I told her that I was running for State Representative and then she said that she wasn't sure if I could keep my job and run for State Representative she wasn't sure of certain things. It was, so she went and asked Sandra Moore the Director of the Department of Labor and that was their question because I didn't know, that was beyond my scope, that wasn't in my thinking, that it would propose a problem. They are in the managerial position so obviously

GAW: So you didn't care whether you got to continue working there or not?

MORIARTY: Well, it was a concern of mine. Of course I wanted to keep my job, but above all else I wanted to run for State Representative. But I did want to keep my job.

GAW: If it would have been required for you to resign from that position to run for that office, did you have another source of income to exist on while you were doing that?

MORIARTY: No, I didn't.

GAW: Then you were living by yourself in Lake Lotawana.

MORIARTY: That's correct.

GAW: Paying rent or

purchasing a house or something?

MORIARTY: Yes.

GAW: But you didn't ask her to find out for you what the consequences were of you filing for office?

MORIARTY: Like I said, I went there solely to tell her that I was going to file for State Representative. She is the one that was

GAW: She didn't tell you she was going to try to find out and get back with you in the next few days?

MORIARTY: Say that again.

GAW: She didn't tell you that she was going to try to find out about the consequences and get back with you in the next few days?

MORIARTY: Yes, she did say that.

GAW: And did she in fact talk to you again prior to March 29th about the consequences of you running for election?

MORIARTY: She talked to me on about March 23rd. She left a message on my recorder, I tried to call her back, she called me back.

GAW: Would that have been about the 25th? Do you think that was on the 23rd?

MORIARTY: We had several conversations during that week. It was more than just one date so

GAW: So you had multiple conversations with her between March 21st and March 29th?

MORIARTY: Yes.

GAW: But was it normal for you to talk to her on a daily basis with your job?

MORIARTY: It depended on the scope of what was at hand.

GAW: Was that something that you normally did, talk to her on a daily basis?

MORIARTY: It depended on what was on hand, if it was a big concern or something, yes. There were times when it went both ways is what I'm trying to say.

GAW: On these occasions did you discuss the consequences of you filing for this office in regard to your job?

MORIARTY: Did I discuss the consequences of filing for office with my employer you mean? With Colleen? The consequences, you mean the end result of what would happen?

GAW: What would happen with regard to your employment?

MORIARTY: I don't really believe so.

GAW: You never had any communication with her, I thought just earlier you testified that you did talk to her about this.

MORIARTY: About the consequences? We talked about whether or not it would be a conflict of interest, but we didn't specifically say that if this is a conflict of interest, you can't keep your job, that is what I consider a consequence. No, we didn't say it in that terminology, we discussed that if this is a conflict or if not she was telling

me that she wanted to find out that. She was telling me that.

GAW: You weren't concerned whether you were going to lose your job or not?

MORIARTY: Well, I was concerned. I wanted to keep my job, but at the same time my sole desire was to run for State Representative.

GAW: Was your mother concerned or not whether you got to keep your job?

MORIARTY: I don't know.

GAW: You didn't discuss that with her.

MORIARTY: Not really.

GAW: I thought I understood you earlier that there was some family members concerned with the consequences of you running for State Representative in regard to your employment. Did I misunderstand you?

MORIARTY: Family members? No, I said that some family members suggested to me to go to the Department of Labor and tell them what I was going to do out of courtesy to them, not out of concern to consequences but out of courtesy to my employer.

GAW: How were you going to support yourself in the next several months during the election process if that job was lost?

MORIARTY: I had some savings, there were several possibilities, part-time jobs, that had been offered to me, help from individuals, things of that nature.

GAW: Did you have a

conversation with Colleen Baker prior to the 29th of March but after the 21st wherein she told you, you would not lose your job if you filed for state representative?

MORIARTY: Sandra Moore presented me with a paper that said, that if anybody had a problem with me campaigning that I could present this paper to them stating that it was within my legal rights to run for a political office and to also be employed by the State of Missouri and she gave me that and said to show that to anyone. I got it in writing that

GAW: When was that?

MORIARTY: I'm not sure of the date. I had several copies, they were introduced as evidence.

GAW: Prior to the 29th,

MORIARTY: Yes.

GAW: And after the 21st of March?

MORIARTY: Yes.

GAW: You testified earlier that you never changed your story throughout this, is that correct?

MORIARTY: Yes.

GAW: We've got a letter here that says, its not a letter it's your statement, press release, that you read, "I did not sign my declaration page when I appeared in the Secretary of State's Office during the filing period."

MORIARTY: Yes, but there are two declarations, and that is what you need to understand, is there were two different declarations. One was signed on

the 21st, one was put in there when I wasn't even there.

GAW: "I did not sign my candidate of declaration page when I appeared in the Secretary of State's office," that was the date of the 21st, is that right? You appeared in the Secretary of State's Office on the 21st according to your testimony.

MORIARTY: I did appear. I was there physically. There is people that will testify to that fact.

GAW: This statement says "I did not sign my candidate declaration page when I appeared in the Secretary of State's Office, during the filing period."

MORIARTY: Let me explain that.

GAW: Am I misreading this?

MORIARTY: Let me explain. Like I said, I found that copy on June 22nd, the night after I read that, so I was unsure. But when I found that I knew what had taken place and I recalled everything very exactly, and I had signed it in fact, I had signed that document on the 21st.

GAW: If you were so unsure, why did you make this statement that sounds to me like you were very sure. It doesn't say that you were unsure or not, it says that I did not sign my candidate declaration page.

MORIARTY: Because the Attorney General told me to.

GAW: You are suggesting that the Attorney General prepared this statement for you.

MORIARTY: No, they told me that I was out of the race, so that is what led me to withdraw my name.

GAW: Did they tell you to make a statement that you did not sign your candidate declaration page.

MORIARTY: No.

GAW: That's your statement.

MORIARTY: I read that statement, yes I did, but . . .

GAW: Now you are telling us that statement is not correct?

MORIARTY: Like I said, there are two declarations, one of them is unsigned, one of them is signed.

GAW: I understand, but, this declaration page here, you say is the one that, that "I did not sign my candidate declaration page when I appeared in the Secretary of State's Office." That was the 21st. That was the day that this, what is it exhibit number 16 had the XM at the bottom and the "record not found," that's the one that you are telling us now that you signed on the 21st.

MORIARTY: I did in fact sign it on the 21st.

GAW: On the day that you did your press release just prior to your saying your finding this you made a statement that you did not sign that form.

MORIARTY: That's because I couldn't locate that form until that evening, I located it.

GAW: So you made that statement just because you couldn't locate it?

MORIARTY: Because I was unsure at that time what had happened, and I could not locate that form, that is correct.

GAW: Why didn't you just say that you were unsure whether you had signed it or not?

MORIARTY: Because that statement was prepared for me and I read it to end my campaign. I didn't type it up or anything, I just read it and that's what they were all saying that I hadn't signed it. Everyone was saying that when in fact I did, but I couldn't remember, but everyone was pushing me and telling me that I hadn't, but in fact I did sign it. Even the Attorney General tried to say I didn't sign it, the Prosecutor tried to say I didn't sign it, but I did and that's it, something happened to that paper on the 21st and that proves that I did sign it and I was there.

GAW: Did you see your mother on the date that you made this statement?

MORIARTY: Yes, I did.

GAW: Where did you see her?

MORIARTY: Here in the Capitol.

GAW: The press release that you say Charles Campbell prepared, where was that prepared?

MORIARTY: I can only assume where it was prepared, sir. Do you want my assumption?

GAW: You weren't there when he prepared it then, is that what you are saying. You didn't see him prepare it?

MORIARTY: What I believe is

that he prepared it on his home computer, and that's what I remember him telling me.

GAW: He told you he prepared it on his home computer?

MORIARTY: That's what I remember him telling me, yes, something about preparation at his house.

GAW: When you were in the Secretary of State's Office on the 21st, was it Barbara Campbell who helped you the entire time, is that correct?

MORIARTY: Yes, it is.

GAW: And she sat down at the computer after you filled out your work sheet?

MORIARTY: She was at the desk while I was filling out the work sheet.

GAW: After you gave her the work sheet, did you see her entering the thing into the computer?

MORIARTY: Yes.

GAW: She did it.

MORIARTY: Yes, she did.

GAW: No one else did.

MORIARTY: No one else but her. She didn't get up until I had signed that declaration the final document. She sat right there the whole time and I sat there. It was the first desk when you walk in the door and there's a chair that sits right here and I was seated there and she was seated here at a computer terminal. I filled out my cash receipt, I mean I gave her money and she filled out my cash receipt and signed it and it's

dated March 21st. Then she instructed me to fill out a candidate work sheet and I did. I filled it out with my voter ID card and then she inputted that candidate work sheet, she typed that into the computer, and she, out came the candidate declaration on the printout thing, whatever you call it. I signed it on her instruction and she said look at your name up here and how it's going to appear on the ballot and is that satisfactory with you. Yes, it was and that's how I wanted it.

GAW: And she made a copy of it?

MORIARTY: Yes, and that's the original copy that I turned over to the Prosecutor and they still have that original copy.

GAW: Original photocopy.

MORIARTY: That's right.

GAW: Then right after you filed, that was about 4:30, is that correct?

MORIARTY: Yes, it is.

GAW: Then what did you do?

MORIARTY: Went out to dinner that evening, but

GAW: What did you do right then? Did you go right out to dinner at 4:30?

MORIARTY: No, walked around the Capitol, tried to tell people my desire and my decision and solicit support or to gain support for running for State Representative.

GAW: Do you remember about what time you went to dinner or do you have an idea? Now that may be an unfair question?

MORIARTY: That evening, no, I can't remember.

GAW: Did you meet your mother somewhere?

MORIARTY: She was in the Capitol, like I stated, in her back office of the Secretary of State's Office on the second floor. She was in the same office, she was in her private office.

GAW: So you went back to meet her?

MORIARTY: No, Barbara Campbell, after she filed me in and congratulated me and Charles congratulated me. Then Barbara went back and got Mom out brought Mom out there and told her that I was filed and Mom congratulated me. It was a pretty happy time, I thought at that moment.

GAW: When did you meet her to go to dinner?

MORIARTY: Meet her, she was already the building. I just went around

GAW: And then you came back to the office to meet her?

MORIARTY: Yes.

GAW: What time was that?

MORIARTY: Like I said, I don't know.

GAW: Was it after 5?

MORIARTY: It was in the evening, yes.

GAW: You had two phone conversations with your mother on the 29th of March, is that correct?

MORIARTY: I'm not sure

GAW: Did you have more than one?

MORIARTY: I'm not sure.

GAW: You don't know

MORIARTY: I'm not sure how many conversations I had with her. I know this fact, sir; there is documentation of me calling that office, but there is like, a one minute phone call and there is a two minute phone call and you know it was not a direct line and I don't remember how many calls I made, but I know that I never, on most of them I didn't make contact with her. I got the, when you call in that number, you get the information center the desk.

GAW: Well, if your mother says she thinks she talked to you twice that day do you think that is correct?

MORIARTY: Like I said, I can't remember.

GAW: You do remember though, that you asked her about your filing?

MORIARTY: Yes, sir.

GAW: That's all I have.

WITT: Is there any other member besides your Mom that holds elective office?

MORIARTY: No, sir.

WITT: And do you have a lot of respect for your Mom's political abilities. Obviously she was county clerk for a number of years and is now elected to statewide office. Do you respect her opinion on political issues? I'm not intending it to be a trick question.

MORIARTY: Let me just think

about that, it takes a lot of thought, it does, it really does.

WITT: You don't know whether or not you respect your Mom's opinion on political issues? (End of tape #18)

MORIARTY: Which issues?

WITT: Any political issues? Like if you're running for office, did you call her and ask her advice on how should I go about getting endorsement from a certain group or should I go door to door, how should I do my mailer, if I'm going to do a mailer. Did you ask her those kind of political questions on how to run a campaign?

MORIARTY: Did I ask her how to run my campaign, no.

WITT: You didn't try to get any advice from her at all on how to run a campaign?

MORIARTY: No, she's so busy with her office. I, you know, I helped her on her campaign as much as possible.

WITT: Okay.

MORIARTY: So that is what I was fueling my things on was my experience through that which . . .

WITT: Between the 21st when you appeared in the Secretary of State's office and the 29th when you talked with your Mom, did you call her at any time in between there or anyone in the Secretary of State's office to find out if anybody else had filed for that seat?

MORIARTY: What date? What time period?

WITT: Between the 21st when

you appeared in the Secretary of State's office and the 29th when you talked to your mother and asked if your filing was all right. Did you call anytime in between there? Or on the 29th did you ask - "has anybody filed against me, is there anybody else except the people that were filed then?" Do I have three opponents in the primary rather than just one?"

MORIARTY: I don't believe I did.

WITT: And, weren't interested at all in who was running against you?

MORIARTY: I didn't say that. I said I don't believe I asked that question.

WITT: Okay. Well did you do anything to try and figure out if anybody was running against you? Anyone else had filed?

MORIARTY: I guess not at that time. No.

WITT: Okay. Representative Shelton.

SHELTON: Back to the press release that Charles Campbell was helping you with. Where did you receive those at? How did he get them to you?

MORIARTY: Sometime in the middle, oh, I would say it was about, you know it was March 21st or 22nd, something like that. He gave it to me physically. I was down here in Jeff City. I can't remember why I returned for some reason.

SHELTON: Were you upstairs in your mother's office? Were you in the Capitol when he gave them to you?

MORIARTY: Yeah, yes, yes, sir.

SHELTON: Okay. When he was, as he was developing this press release, did you ever have phone conversations with him about the press release?

MORIARTY: No.

SHELTON: He didn't call you? You didn't call him.

MORIARTY: No, sir.

SHELTON: When you were here you stated that you visited Bob Griffin's office to let him know you were filing for office. Correct? I think Miss Wible asked you who did you contacted while you were here and you said you went by Bob Griffin's office.

MORIARTY: Yeah.

SHELTON: Okay. Did you go by Jim Barnes' office?

MORIARTY: No, I don't believe so.

SHELTON: Can you name other people in the building who you talked to on that day? You said you talked to several representatives?

MORIARTY: I, you know, I can remember some other individuals that I spoke to. I guess I can't recall any other representatives' names at this time.

SHELTON: Who prepared the statement where you withdrew from the race.

MORIARTY: I'm not sure, I'm sorry, I'm really not. You know it was handed to me and I read it.

SHELTON: Now Tim that just doesn't make sense. Here you are withdrawing from a race. You got a statement to read and you don't know where it came from?

MORIARTY: Well, I'm sorry if it doesn't make sense to you, sir, you know, that's the truth.

SHELTON: And during the approximately one half hour that you sat at Barbara Campbell's desk you never saw her get up?

MORIARTY: No, sir.

SHELTON: To make copies or to

MORIARTY: Just to make that one final copy after, you know, the declaration that I had signed.

SHELTON: And you had spent almost half an hour with her.

MORIARTY: I would say that it wouldn't be any more than that. You know, it's not a very hard process. I'm sure you can testify to that.

SHELTON: While you were filling out all the paperwork were you talking about other things during that time? In that half an hour?

MORIARTY: It's a possibility. I'm not sure.

SHELTON: That's all, Mr. Chairman. Thanks.

WITT: Representative Richardson says that he has one question. We've heard that before.

RICHARDSON: Mr. Chairman, I believe my question was asked and answered.

WITT: Representative Wible.

WIBLE: Thank you, Mr. Chairman. I was just remembering what you had said about receiving the phone call that you needed to come back and sign something. And then you came to Jefferson City, signed the declaration and sometime later discussed this with your mother. Was that your testimony that you didn't discuss that with your mother when you got the phone call or when you came to Jeff City to sign it? You discussed it sometime later?

MORIARTY: Yes.

WIBLE: And tell us again what her reaction was when you told her that the documents had not been signed.

MORIARTY: You know, I guess, disappointment.

WIBLE: Was this the first way that she learned about this to your knowledge? Did it appear that you were informing her of something she did not previously know?

MORIARTY: I'm not sure.

WIBLE: When you testified a few minutes you said that you thought maybe her reaction was like shock. Do you recall saying that?

MORIARTY: Yes.

WIBLE: Would that not indicate that it was news, something that she was just hearing for the first time.

MORIARTY: Like I said, I'm not sure. You need to ask her that. I, you know, don't know when she did know of that.

WIBLE: Did she act surprised? Did she say, "Oh, I already knew that?" Or what did she say when you told her?

MORIARTY: Like I said. Disappointment. I mean, you know.

WIBLE: Did she have any words to express it?

MORIARTY: Not, I don't really recall.

WIBLE: And you don't recall exactly when you discussed it with her either?

MORIARTY: No. Not the exact date. No ma'am.

WIBLE: But that it was sometime after March 29th?

MORIARTY: Yes. Correct.

WIBLE: All right. That's it. Thank you.

WITT: Okay. We're going to take a five minute recess and we'll come back in and I believe this is the last witness we are going to hear from today. Five minute recess.

• RECESS •

WITT: We have heard a lot of testimony. We have read a lot of testimony. The charge to this committee is whether or not we can find good cause to believe an impeachable offense has occurred. If based on what we have heard so far the members of this committee believe that we can find good cause to believe an impeachable offense has occurred, there will be no need to

go forward. If at this time the committee decides that there is not sufficient evidence to find good cause that an impeachable offense has occurred, then we need to report that back to the House and we need to schedule additional committee hearings. The question I put before you, members of the committee right now, is do you believe based on the sworn testimony that we have, the testimony that we have heard, the jury verdict, the Grand Jury verdict, and the indictment that there is good cause to believe that an impeachable offense has occurred. Representative Wible.

WIBLE: I still feel that there is a lot, there's a lot of question about the credibility of the various witnesses. I still feel that there is a lot that we have not heard that I would like to hear. I have other questions for Judi Moriarty that I didn't think of without knowing in advance that we were going to be questioning her. I think there are a lot of gaps that need to be filled in. I don't think it would take necessarily too much longer to do that. But I personally do not feel comfortable with the speed with which the hearing was called and the witnesses that were, really didn't have a whole lot of notice that they were going to be here. And we did not have notice that we were going, who we were going to be questioning in order to prepare properly for that questioning. And I've not had a chance to complete anywhere even approaching the number of documents we have before us. And personally before making a decision of this magnitude, I would like more time to consider it and I would like to see more evidence presented.

WITT: Is there any further discussion with the rest of the committee?

RICHARDSON: Yes. Mr. Speaker, I concur with Representative Wible. I'm not prepared to go forward at this point in time. I'd like to point out, first of all taking this into context that less than 24 hours ago we were still under the impression that we were going to, as a committee, have an opportunity to carefully read the documentation that was going to be given to us. We didn't go into session until 8:00 last night. At least the one critical document, the 400 page transcript of the Grand Jury proceeding, was not given to us till 10:30 last night and we didn't adjourn until after 1:00 o'clock and we're back here at 8:00 o'clock. I have not read this document number one. Number two . . .

WITT: What were you doing between 1:00 and 8:00?

RICHARDSON: I was, obviously I wasn't doing what you were doing, which was getting lawyers out of bed at 2:00 o'clock in the morning to appear in court at 8:00 o'clock in the morning. And I don't have the nerves of steel like you do. And I do require at least 30 or 45 minutes of sleep every night. But beyond that you are asking us to proceed based on a finding in a criminal proceeding. We don't have the transcript of that trial. We don't know what was said other than what some people told us second hand or third hand or worse what was said at that trial. And I think that is the critical document, not the Grand Jury proceeding. Thirdly, we have not heard from witnesses here that I think are extremely important, including Gene

Wiseman, including Randy Sparks, including, and in particular, Nadine Barrows, and including other individuals from the elections board, the computer operator that I have a lot of questions for, the programmer, and the other election officials over there. So I just don't think that we have completed the investigation on this particular point. Secondly, I think in a larger context even if you could with the limited information we have at this time reached a conclusion that the acts and/or omissions that were committed between March 21st and May 10th or thereabouts constitute a criminal finding. I think that it is a different standard that we have, it's a different forum that we're in, it's a different mission that we have as a committee meeting here to consider articles of impeachments under our constitution. A very serious proceeding that has never been completed in the history of this state and which has only been done two or three times in the history of the state and has not been done in light of the, since the adoption of the criminal statute under which this lady was charged. And we also have four or five thousand pages of documents here that were given to us last night that none of us have even cracked yet that presumably allege other acts and/or omission that might constitute impeachable offenses by this elected official. And I think that it's very important that we consider not only the allegations that have been brought to us in the last 12 or 14 hours but other allegations of acts or omissions taken in a larger context before we could possibly determine, whether or not, taken as a whole, this woman has conducted herself in

office in such a manner that we should impeach her with the obvious and immediate result being suspension and the ultimate result being removal from office. It's a very serious thing to me and I'm just not ready to proceed with it at this time.

WITT: Any further discussion from committee members? It appear to be the will of the committee then we will report back to the full body that we can not at this time find good cause to believe that an impeachable offense has occurred upon the evidence that has been put before us and that we feel the need to gather further evidence. I think there are a couple of issues that we need to do before we adjourn here today. One of those is to hire an attorney to represent the committee as we proceed on further. The other is to decide which individuals and which documents that we want subpoenaed. The next meeting of the committee will be on October 3rd, except for any technical meetings that may have to occur in the mean time to deal with the issuing of additional subpoenas or that, I would like to appoint Representative Gaw since I will not be here next week to preside over the committee if any meetings have to be called for purposes of dealing with additional subpoenas or that kind of thing. Ask a question.

RICHARDSON: Is that in retaliation for all the questions he asked today?

WITT: Yes.

GAW: I don't think that we quite got up to your level yet, Mark. But, I'm not sure what the reason was for that. I'll work

on it next time.

WITT: I had previously looked at a few individuals that I thought we needed to subpoena. We'll request that the Speaker to subpoena these individuals and I'll let you name any additional. Does everybody agree that Nadine Barrows is an individual that we need to subpoena before us? What about Joe Carroll?

GAW: Yes.

WITT: Jim Kolb? Gene Wiseman? Hal Hebert?

GAW: Yes.

WITT: Are you keeping up? Are there other individuals?

SHELTON: Charles Campbell.

WITT: I did not put Charles Campbell on that list? Charles Campbell.

RICHARDSON: Colleen Baker.

SHELTON: Sandra Moore.

WITT: Sandra Moore.

WIBLE: Randy Sparks.

RICHARDSON: I don't know but there maybe some question about it but I think Randy Sparks needs to be subpoenaed.

WITT: Randy Sparks.

WITT: I think we'll issue subpoenas to all of these individuals.

WIBLE: Mr. Chairman.

WITT: Yes.

WIBLE: Also Margaret Freeman, someone who proofed the documents and I can't recall

where I read that around 2:00 a.m. this morning. She either at the election office or somewhere normally proofed the documents. I would like to question her.

WITT: Margaret Freeman.

RICHARDSON: I'm assuming, I share Representative Wible's concern. I think I have a few more questions for the Secretary as well.

WITT: Okay. Secretary of State Moriarty. Are there any other individuals you can think of at this point that need, that you'd like to hear from?

RICHARDSON: May I ask a question?

WITT: Sure.

RICHARDSON: I assume then at least for the next scheduled hearing that we will be limited to this matter and not to the, because I have no idea who we may subpoena with regard to this, these issues.

WITT: We will, we can expand beyond that if any, if we have questions of these individuals. But that will be the main individuals. I guess the . . .

SHELTON: Oh.

WITT: Yes.

SHELTON: Before we go on, we need to see if we can find out what Assistant Attorney General suggested that Tim get out of the race and for what reason, if we can find that individual. He said he didn't know who it was but there is some Assistant Attorney General who had some involvement in his withdrawing from the race.

WITT: I don't know how, who would you propose to?

SHELTON: Ask his boss, he knows who he was, I'm quite sure.

WITT: Would you like to subpoena Jay Nixon then?

SHELTON: No. Not Jay. But find out who the guy is or lady, whoever it was.

WITT: Okay. Chuck Hatfield, I believe, is the next in command over there. Would you propose that then or how we going, or do you just want to check into that and find out yourself?

SHELTON: No. Let Steve do it. He's in charge.

WITT: Okay. Steve you're in charge.

GAW: Thank you, O.L.

WITT: Okay.

RICHARDSON: Along those lines it seems like I recall in the newspaper that once the trial was completed, wasn't there a statement that the Attorney General was continuing the investigation on this? Or, is there an active investigation going on and should we subpoena that file if there is in fact?

WITT: I do not know if there is an active Attorney General's investigation going on.

RICHARDSON: And I don't really care if there is or isn't but if there is there may be things that are pertinent for our purposes that have been discovered through the process of that investigation. So it might be, I think it probably, to segue

into your thing, it may be important for us at least to inquire into that matter and subpoena them in if there is in fact something there.

WITT: Okay. Are investigative documents subject to subpoena?

RICHARDSON: I don't know. I guess we'll find out.

WITT: Why don't we subpoena Chuck Hatfield, so we can ask him? And ask him to bring with them the documents from any current investigation.

WIBLE: Mr. Chairman.

WITT: In addition as far as documents, as far as documents.

I would like to subpoena the documents, all telephone records from the Secretary of State's office including any telephone credit cards and who they were issue to and the charges that were placed on those during, let's just do it for the years of 1993 and 1994. I'd also like all mobile phone records and the charges to those. All records of the state airplane where the Secretary of State or any relative flew on the state airplane. All expense account records of the Secretary of State's office. All credit card receipts on reimbursable items that were charged to expense accounts. And all paperwork in the Secretary of State's office regarding Tim Moriarty's candidacy. Most of those documents we can get from the Office of Administration. The last one would be the Secretary of State's office. Are there any other documents that at this time you are aware of?

RICHARDSON: Yeah. I think in view of the revelations that we received last that I'd like to take a look at the other filings

for the other candidates. Specifically the declarations of candidacy for the other people that were filed in this election.

WITT: All documents concerning filings for the

RICHARDSON: 94.

GAW: You want all offices?

RICHARDSON: I think, I'm just interested in State Rep races.

WITT: Okay. Office of State Representative

WIBLE: For 94.

WITT: For 94 election. Anything else?

SHELTON: Mr. Chairman, I would like to have a copy of her organizational chart. Showing the number of FTE's.

WITT: We have, oh, including FTE's.

SHELTON: Yes.

WITT: Organizational chart and FTE's that fall under each item.

SHELTON: Wait a minute let me follow up. And let's try to find out, I guess, additional employees that she hired since she became Secretary of State.

WITT: The names and positions of all employees that have been hired by the Secretary of State's office of since Judi Moriarty took office.

RICHARDSON: As a followup to the expanded issues that we're going to get into, although I don't know that want to inconvenience them, I do think that we should subpoena, at least have on call the three

individuals that comprise the management team. I believe one was from Jeff City and one was from St. Louis and one was from Fulton or

WITT: The three members of the management committee. I think that I would like to, and we have asked for a lot of documents and individuals, I would like to have a goal of having our first meeting once the documents are brought in for October 3rd. And October 3rd, 4th, and 5th total hearings and try and see if we can't complete the hearings in three days. That will be our goal. I don't know if we will be able to accomplish that but that will be the goal. Also any of those documents that are received in the mean time between now and October 3rd I'd like to get those to the committee members as quickly as possible so that they can begin looking at those.

WIBLE: Mr. Chairman.

WITT: Yes.

WIBLE: A couple of additional things in the way of documents. Do we have copies of the Grand Jury subpoenas? You know, if we don't can we?

WITT: Oh I know what else I, do you want those Grand Jury subpoenas?

WIBLE: I'd just like to see them.

WITT: Grand Jury subpoenas. I would also like all exhibits that were used in the trial.

WIBLE: And the filing for the ethics committee filing that was originally signed by

WITT: On behalf of the campaign committee established

by Tim Moriarty or that wasn't established, the, all ethics filings on behalf of Tim Moriarty's candidacy or any campaign committee established thereby.

GAW: Would we have, would there be paperwork that we see of the filing fee that Tim paid?

WITT: There should be.

GAW: I'd like to have that.

WITT: Copy of the receipt of the, of Tim Moriarty's filing fee as it was turned over to the Democratic headquarters and the date thereof if we have it.

GAW: "inaudible"

WITT: Yeah, we've got him listed.

GAW: No. I'm talking about the individual that was working, Roger, yes.

WITT: And Steve I'll let you work with Sharon to try to divide up over that three day period which days, which dates we would like to have each one of those individuals subpoenaed for so we can try and move through them. I believe the Secretary of State, we may want to wait until the last day, she is obviously a, she can be present throughout the hearings but we would like to have her for that last day. But I will let you make those determinations as to dates and work with Sharon on that.

GAW: That's fine.

WIBLE: Computer records for March 21st, from the Secretary of State's office..

WITT: Okay. Do you want to limit that in any way?

WIBLE: Okay.

WITT: Those records dealing with elections or . . .

WIBLE: Yes. Just those for the filings of candidates in the afternoon of the 21st, March 21st would be fine.

WITT: Do you also want all of them for the 29th.

SHELTON: The 29th also.

WIBLE: Right. And then I don't know if this is too broad to try to get this, but the Secretary testified that as to corporate documents that are not signed, inadvertently left unsigned, that they go ahead and get the signatures on them later. Similarly to what was done here. Could we ask them to produce copies of any such documents with . . . ?

WITT: We could subpoena the Director of the Corporations Division. If the committee will trust Sharon and Steve to work out appropriate language to attempt to come up with the proper documents under that, is there any objections to that? Okay. Is there anything further at this time?

GAW: Yeah. Maybe we've already mentioned it. I want copies of the postings outside of the Secretary of State's office or made up that would have been the same if they are available.

WITT: The candidate list from . . .

GAW: The candidate list from the 21st, including the 21st through the 29th.

WITT: 21st to 29th inclusive.

WIBLE: And I don't know if we have this but any employee records that would show the dates of his employment and his resignation.

WITT: Okay. We can subpoena that with his supervisors that we've already subpoenaed. The next scheduled meeting will be 10:00 a.m., October 3rd and if there is a need, I'd would like all of you to give information to Representative Gaw about where you can be contacted. In the mean time in case there is need to call additional meeting, for dealing with additional subpoenas or dealing with that. The other issue is hiring of an attorney to represent the committee. I submitted to you all two resumes.

RICHARDSON: Mr. Chairman, I would move, I've reviewed that and I've, at the sake of probably causing confusion I think Mark Richardson has an excellent reputation as an attorney and I would move that we retain him as counsel for the services we need.

WITT: There's a self-serving argument.

RICHARDSON: I love his name. Just love his name.

WITT: Is there any discussion on that?

GAW: Is he a good attorney?

WITT: Richard Callahan used to be his boss and he came highly recommended from Mr. Callahan. (End of tape #19) Mark Richardson has indicated that his charges will be \$80.00 per hour. If I could amend your motion, or if you'll withdrawal yours, I'll move that we hire Mark Richardson for a cost of

\$80.00 per hour and authorize Steve to get with him and enter into a contract for the representation. The auditor tells us we're supposed to have written contract based on that.

RICHARDSON: We all want to see those before we sign them. I may send them around.

WITT: All in favor of that say "aye".

ALL: Aye.

WITT: Opposed "no." Ayes have it. We have voted to hire Mark Richardson at the cost of \$80.00 per hour to represent the committee. I would like to get a copy of the video tape of the hearings thus far and get that to Mark Richardson after the contract is entered into. Is there anything further to be brought up by this committee at this time? If not we are adjourned till October 3rd unless an earlier meeting is scheduled. (End of tape #20)

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PROCEEDINGS

October 3, 1994

REP. WITT, CHAIR: We call the meeting to order. I don't think this week is going to be near as much fun as it was last week but we are ready to begin again with the proceedings. The staff has been working hard on getting the documents together that we requested last week and trying to go through some of those. You've been given a packet of materials this morning. Sharon, you want to go through and tell them what all that is in that packet or is there, Richard, maybe do you have, who would be

RICHARD SMREKER: Oh, that's Sharon's packet.

SHARON BUSCH: The material, some of the material requested is from the Secretary of States office. "Inaudible"

WITT: And we probably, I'm going to try to adjourn just a little bit early today depending on how the testimony goes of all the witnesses, so we have some time to go through some of those documents rather than working as long as we did last, or two weeks ago when we were in session. We'll try and take it a little slower this time. Mr. Carroll.

JOSEPH CARROLL: Morning, Mr. Chairman.

WITT: How are you?

CARROLL: Fine.

WITT: If you will have a seat. Will you raise your right hand for me?

CARROLL: Yes.

WITT: Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

CARROLL: I do.

WITT: Will you state your name and address for the record?

CARROLL: Yes. It's Joseph Carroll, 320 Washington Street, Jefferson City, Missouri.

WITT: Okay, and Joe what do you do for a living?

CARROLL: I am the Deputy Secretary of State for Election Services in the state of Missouri.

WITT: And how long have you been in, what Secretary of State's office?

CARROLL: Since January of 93.

WITT: Okay. And have you served in that capacity during that entire time?

CARROLL: Yes, I have.

WITT: When did you first become aware that there were any problems with Tim Moriarty's declaration of candidacy?

CARROLL: It was brought to my attention by, I believe it was Gene Wiseman who is our Director of Elections, there had been an unsigned document.

And that was sometime before the end of the session. I couldn't pin point, it seemed like it was the later part of April.

WITT: Okay. So Mr. Wiseman did he come to you or call you and tell you there was an unsigned . . . ?

CARROLL: I don't recall whether he called me or came to me in person. But it was relayed to me through him. It seemed like I was in the Capitol at the time. As you all know I spent a good deal of time over here during the session working legislation.

WITT: Serving on the Elections Committee.

CARROLL: Yes.

WITT: I had the pleasure of working with you.

CARROLL: Yes.

WITT: So sometime in April you believe you got a call or Mr. Wiseman came by and talked to you and said that you had an unsigned

CARROLL: Yes.

WITT: Declaration of Candidacy.

CARROLL: Unsigned Declaration of Candidacy for Timothy Moriarty.

WITT: Is it unusual to have an unsigned Declaration of Candidacy?

CARROLL: Well, I was County Clerk for 14 years before I came down here and I've never heard of one in that length of time. So it's the first one I've ever encountered.

WITT: Okay, and you'd never had another one in the Secretary of State's office?

CARROLL: Not that I'm aware, nor have I heard of anyone speak of one.

WITT: Okay. Were you there during, were you working with the Secretary of State's office during the entire filing period for that election?

CARROLL: For this last election? Yes sir.

WITT: With the election that Tim Moriarty was filing for?

CARROLL: Yes. That's correct, yes.

WITT: And during all that time there was no other unsigned Declarations of Candidacy?

CARROLL: That's correct. I believe we have over 500 Declarations of Candidacy for this election.

WITT: Were there other Declarations of Candidacy that had other missing information that you found later or that had to be changed in some manner?

CARROLL: I think after this came up they checked some of the other Declarations and I think in some instances there were some that were not signed by the person who accepted the Declaration. But the candidate's name was on every one of them. Signed by the candidate.

WITT: What did you do as elections, what was your job as far as the Declaration of Candidacy? What, how did that work? Were you the one actually taking the information or were you reviewing all of them? Or did, was your staff, how did a candidate filing work?

CARROLL: Yes. The candidate filings were under the direction of Gene Wiseman, the Director of Elections. As the Deputy Secretary I have Elections, Notary Publics and Commissions and the Budget and the Legislation part. The elections this time for the registration for being a candidate took place in the Capitol office. And we prepared instructions for the candidates and then Mr. Wiseman conducted a training session for the Capitol staff that would be doing the filings. All of them took place in the Capitol office. And on a daily basis we would come over at 5:00, pick up the filings for that day along with any money that had been taken for either of the three political parties during that day, and return the money and the documents over to our office and the State Information Center. At the same time we would pick up a copy of the computer printout. At the end of each day's business we ran a computer printout of all the people who had filed that day. It was a cumulative list, adding in the names of the people for that particular day and the office they were running for. And copies of that then were posted daily outside the office. Some were distributed to both the House Republican and Democratic Caucus and then we took a copy back to our office.

WITT: Okay. Let me interrupt for just a second because there is

something I forgot to do in the beginning.

CARROLL: Sure.

WITT: We are in these committee hearings, and this is not for your benefit but for everyone else here requesting that any person who is going to be, appear as a witness before the committee not be present during the testimony of other witnesses. If there is anyone here who believes they will be a witness, that you've been subpoenaed to be a witness, or that the Secretary of State has indicated that they want you to testify on her behalf or testify otherwise in front of this committee, if you could, I believe it's hearing room 8, we have set up for witnesses to be so if there is anyone here that may appear as a witness before the committee or you think that you might be called, if you would, please leave the room and we will call you as a witness later and have you in here for that purpose. But I wanted to be sure that we got that announced. I'd forgot to that this morning. Okay sorry to interrupt.

CARROLL: That's all right. So we would come over every day and pick up a list of the people that filed and post the filings outside of the office.

WITT: Did you compare that list with the list of documents you received? To make sure that everybody was on it? Or did...

CARROLL: That's correct.

WITT: Okay.

CARROLL: Generally that would either be Mr. Wiseman or Mrs. Freeman with our office. They would check that. We

would use that document then the printout as the document for preparing the list of candidates that we would send out to all the County Clerks because we had to print that and send it out to them.

WITT: Okay, now the document, what came to your office from, I understand they file here in the Capitol building. Were you working over in the Information Office?

CARROLL: Yes, in the Information Office.

WITT: Okay. So what actually came to you?

CARROLL: Yes. We would get a copy of the receipt from the political party showing that they had paid their fee. A copy of the worksheet that the candidate had filled out with the necessary information and a copy of the Declaration of Candidacy, the Declaration of Candidacy was actually produced by a computer over here, a printer. They would key in the information from the worksheet, the necessary information and then the printer over here would produce the actual filing document and then the candidate was asked to sign that document and that completed the process.

WITT: Okay, so you got all that information. Was someone in your office or were you responsible for going through all of that and making sure that everything was properly filled out?

CARROLL: Right. That fell to Mr. Wiseman and the Director of Elections. And we had a - it was a very simple process - we had two boxes one marked Democrat, one marked Republican and we

had a small box for the Libertarians and we had a file folder in each box for each office eligible to be filled at this election from the United States Senator, the State Auditor, the various House seats that were up, the Senate seats, and those Circuit Judges which are partisan elections.

WITT: And those are time and date stamped so that you know which order they're going to appear on the ballot?

CARROLL: Yes, and that is very important because that does determine how you appear on the ballot is the order which you filed. So that's why the time stamp becomes important.

WITT: Okay. So prior to April when you received a call from Mr. Wiseman, you had no knowledge that Tim Moriarty had filed for office or had you heard that he had filed for office?

CARROLL: Yes, I had heard that he had filed for office because on the last day of filing, actually it was reporter who asked me if he filed and I didn't know and I said well I'd check and yes his name did show up so that's how I learned.

WITT: Okay. Did, had his name showed up, you said you checked the last day of filing, had his name showed up on previous reports, the printouts?

CARROLL: No. It had not.

WITT: So it had not appeared at all during anytime until the last day?

CARROLL: That's correct.

WITT: Okay. When the reporter asked you, what

documents did you review to find out whether or not he had filed?

CARROLL: Well, filings were still open in this office. The documents were still here. We came over on the last day about the last hour and I went through those documents that were still there from the last day's filing and his filing paper was in there.

WITT: Okay. So you went through the documents themselves not just the list, the printed list, you went through the documents themselves and found his?

CARROLL: That's correct, because we hadn't quite run the list out yet. And there was a big rush on the last. I think something like 50 people came on the last day to file so they were still in the process of running in.

WITT: Okay. Did you notice anything incorrect or problems with his paperwork?

CARROLL: No. It was just a cursory look to see whether his name showed up in the filings is all.

WITT: So you just dug through the stack

CARROLL: Yes.

WITT: and looked to see?

CARROLL: Yes.

WITT: Okay. After Mr. Wiseman called you and told you that you had an unsigned Declaration of Candidacy, I guess let me back up just a second, did, had you ever heard previously to reporters asking you that last day of filing that Tim Moriarty had filed or was

going to file, was there any discussion around the office of the boss's son running for office?

CARROLL: Yes, as a matter of fact he'd even been through the office at one time and made an inquiry about residency and we gave him the copy of the papers we had prepared that we gave to every candidate that came in. And I knew he had expressed an interest in running. Actually I'd thought he was talking about running for Todd Smith's seat, the Sedalia seat, and I never bothered to pursue it after that.

WITT: Okay. But there wasn't any talk that he definitely filed today or they brought him around and said, "Here he is he's going to file today?" There wasn't any discussions like that?

CARROLL: No.

WITT: Now, okay, back, after Mr. Wiseman called you what happened in regard to that? What did you . . .

CARROLL: Okay.

WITT: What was the nature of your conversation?

CARROLL: Well, I don't believe he'd ever heard of the situation coming up either so I checked with our legal counsel Mr. Sparks and asked him what should we do at this point if we have an unsigned document. And it was his opinion that a clerical error could be corrected and I, so, relayed that information to Mr. Wiseman that it was, that it could be corrected.

WITT: What information, when you called it was you or yourself that called

CARROLL: Mr. Sparks.

WITT: Mr. Sparks?

CARROLL: Yes.

WITT: Okay, now what all information did Mr. Wiseman give you? Just that we have an unsigned Declaration of Candidacy?

CARROLL: Yes.

WITT: Did he give you any other information about the background of how it came to be unsigned? Or did he know?

CARROLL: I don't believe he knew. He just relayed to me that it was unsigned.

WITT: Okay. So all you knew at that point was you had a document that did not have a signature at the bottom of it. That a signature was required.

CARROLL: That's correct.

WITT: Did he mention whether or not there was a signature of the individual who had taken the information?

CARROLL: No, he did not.

WITT: Okay. So then you called Mr. Sparks. What information did you relay to him?

CARROLL: That we had a Declaration for Timothy Moriarty that was not signed by Timothy Moriarty.

WITT: Okay.

CARROLL: I had never had that come up before so I really didn't know, I was looking for guidance on what we needed to do. And it was determined by Mr. Sparks that it was a correctable error.

WITT: Okay. And that's all the information that you gave him. We have Tim Moriarty's Declaration of Candidacy, it's not signed, what do we do?

CARROLL: That's correct.

WITT: Okay. Had you talked to the Secretary of State about this?

CARROLL: No, sir.

WITT: So you just contacted Mr. Sparks. Okay. Now Mr. Sparks related to you over the phone that it was a clerical error and you could go ahead and fill in the signature, or have them come in and fill it in?

CARROLL: Yes.

WITT: How did, how were you supposed to deal with that, do you recall?

CARROLL: No. I don't think he gave any parameters or explanations as to how it should be done. What I was more interested in was it possible to do it from a legal stand point. The mechanics of how he was going to come in never crossed my mind at that time.

WITT: Okay, so what did you do after you talked with Mr. Sparks?

CARROLL: I relayed to Mr. Wiseman that Mr. Sparks had said that it was a correctable error.

WITT: Okay. Did you call the Secretary of State about this?

CARROLL: No, I did not.

WITT: Did you call Tim Moriarty about this?

CARROLL: No, I did not.

WITT: Okay. Is there any reason why you didn't feel it necessary to contact your boss and tell her that her son, that there maybe a problem with her son's candidacy filing?

CARROLL: No. Because if the General Counsel had determined that it was a correctable error, I saw no problem with it.

WITT: Okay. So you . . .

CARROLL: And I didn't deal with the Declarations normally anyway.

WITT: Okay, so you were going to leave it to Mr. Wiseman to take care of all those kinds of issues? Did you ever have any conversation with the Secretary of State about her son's candidacy documents being unsigned?

CARROLL: Oh, yes. After that and all the publicity came up about it she asked, for example, did any, did I personally see Tim come and sign his document? Did anybody else come and see his document? And I told her no, no one that I know of.

WITT: Okay. At what point was that?

CARROLL: That particular conversation took place, I believe, on the Monday before the Grand Jury met in June, whenever it was.

WITT: Okay. So from April until June you never had any conversation with Judi Moriarty about the Declaration of Candidacy?

CARROLL: None that I recall specifically. No sir.

WITT: Okay. Did you ever fax a copy of the unsigned Declaration of Candidacy to the Capitol office of the Secretary of State?

CARROLL: No, I did not.

WITT: Okay. So you didn't get a copy of that. Are those records kept in your office? Or who would be most likely if someone calls and says I need a copy of Declaration of Candidacy, who would be most likely to pull that up and find it for them?

CARROLL: Okay. The filings as I told you were kept in two separate boxes, three actually, one for the Libertarians, but they were marked Democrat, Republican and all the numbers. Those boxes were kept in the file room in the Information Center which is a storage type room that has other filing cabinets in it, various supplies. It's not a large room. It's probably 8 X 10 and they were in there on a table. Anyone in the division could have access to those.

WITT: Okay. Who is the person who is directly responsible for those documents? Making sure that they're all kept there and that none of them are misplaced or taken out or is there any kind of security over there?

CARROLL: Well it's Mr. Wiseman's direction as Director of Elections.

WITT: Okay. Do you have any knowledge of anyone sending Tim Moriarty's unsigned Declaration of Candidacy to the Capitol office of the Secretary of State?

CARROLL: No, sir.

WITT: Did you have any conversations with Tim Moriarty

about his candidacy, his Declaration of Candidacy being unsigned in between the time in April when you found out it was unsigned and the time it was actually signed by him?

CARROLL: No. I did not and have not.

WITT: Did you actually see him sign the Declaration of Candidacy?

CARROLL: No. I did not.

WITT: Okay. Did you ever see the Declaration of Candidacy itself? Had you ever seen it itself?

CARROLL: I have seen it, yes.

WITT: Had you seen it back when, between the time Mr. Wiseman called and the time it was actually signed? Did you ever see the document itself?

CARROLL: No. I didn't see it until Mr. Lee came with a Grand Jury subpoena to pick it up. And I went and got it from the file and made a photo copy for our file and gave him the original.

WITT: Okay. And when Mr. Lee got that document what was the condition of it? Did you look at it to see if there were signatures on it?

CARROLL: Yes. It appeared to have two signatures on it. The filing paper and the receipt from the party for the filing fee were all attached.

WITT: Okay, so it had two signatures at that point?

CARROLL: Yes. It did.

WITT: The signature of Tim

Moriarty and the signature of Barbara Campbell?

CARROLL: That's correct.

WITT: Or at least those names appeared, whether or not they signed them themselves. Did you have any information at any time that Tim Moriarty had actually been to the office to fill out the Declaration of Candidacy and to sign it at that point? Or did you just say we got one that's not signed and go from there?

CARROLL: No. I just said that I was advised that we had one and we went from there. I didn't know "inaudible".

WITT: So you didn't know any of the background. You didn't know whether or not Tim Moriarty ever appeared in the office? Okay.

CARROLL: No. I did not.

WITT: Did you have any conversations with anyone else in the office beyond Mr. Wiseman and Mr. Sparks about what process or procedure to go about correcting a Declaration of Candidacy that had no signature?

CARROLL: No. I did not.

WITT: Did you ever do any further checking on it prior to the Grand Jury investigation?

CARROLL: No. I really . . .

WITT: You just made the one phone call and that was it?

CARROLL: That's correct.

WITT: Did you ever direct anyone from the Secretary of State's office to sign the Declaration of Candidacy?

CARROLL: No.

WITT: Is it normal for someone, let me ask you this - you said that when you went through them you found other ones where the individual from the Capitol office who had taken the information had not signed them. What did you do with those? Was that, when they were being checked through was there ever any time that you caught those?

CARROLL: No.

WITT: What happened to those?

CARROLL: No. That was when they were being checked by the local County Prosecutors office.

WITT: Okay. So you never, you never did any checking to see what . . . ?

CARROLL: I did not personally. No, sir.

WITT: Okay. Were you aware of any other Declarations of Candidacy that had any other kinds of problems during the election process that had to be corrected?

CARROLL: No.

WITT: So this is the only one with any kind of error that you were aware of?

CARROLL: That's correct.

WITT: Okay. So you never did anything with the Declaration of Candidacy yourself?

CARROLL: No.

WITT: Except pulling it to look at it the first time when the reporter asked you if he'd filed and that was on the 29th?

CARROLL: That's correct sir.

WITT: And prior to the 29th his, Tim Moriarty's name had never appeared filing for that office?

CARROLL: That's correct.

WITT: Any time between, so the list that came out on the 21st did not show Tim Moriarty as filed?

CARROLL: That's correct.

WITT: And to your knowledge it would have been shown if they hadn't, if he had appeared and filled out the paperwork?

CARROLL: Yes. One of the reasons that we picked up a copy daily right particularly toward the end was because we would get calls every day from the media saying - who had filed today? And so we would check those to see. I think had it been shown up somewhere we would have seen it.

WITT: Okay. And just to clarify one more time. On the 29th when that reporter called, you actually went over and saw his Declaration of Candidacy. You didn't see his, the list wasn't even prepared at that point. Is that correct?

CARROLL: That's correct. I just saw the printout form and the, I didn't see if there was any signatures on there yet.

WITT: So you pulled the actual Declaration of Candidacy and looked at it?

CARROLL: Yes.

WITT: Okay.

CARROLL: They were all there in a file folder getting ready to come back over to us.

WITT: Okay. That's all I have at this time. Is there any other questions from committee members? Mr. Richardson.

REP. RICHARDSON: Mr. Carroll, I'm curious about a few things here. First of all, would you go through this again and explain to me where the originals and where the copies are kept and when and how they're transported from one building to the other?

CARROLL: Yes, sir. When a person comes in to file in the Capitol office, if they have not already paid their filing fee to the party they would pay it there at the office and receive a receipt for that. They would be given a worksheet to fill out. And from the worksheet the clerk would enter into the computer the information necessary to complete the filing. The computer printer would produce the filing document and that's what the candidate would sign, the filing document. Those three were then stapled together along with the check, if there was one, and on a daily basis we would have someone come over and pick all those up and transport them from the Capitol office to the Information Center.

RICHARDSON: Would that be at any particular time of the day? Was there a sort of routine?

CARROLL: Yes, sir. At the end of each day. At five o'clock each day. And at that time they would then do a computer printout of everyone who had filed that day. And we would bring back with us a copy of the printout along and they would post one outside of the office every day on that bulletin board.

RICHARDSON: Was this a specific person or was it just a courier that you used that might be anyone that had time to go do it?

CARROLL: Yes. It would be anyone in our office. It was to be no one outside the division but it would be someone within the division that would do it.

RICHARDSON: And the original documents, all of the original documents then were transported from the Capitol to the Information Center?

CARROLL: Yes, sir. No copies were left anywhere.

RICHARDSON: Okay. So the documents that you looked at on the afternoon of the 29th were the original documents. And they were, later that night they would have been transported on over. Is that right?

CARROLL: That's correct.

RICHARDSON: Now what kind of procedure is there over there in the Election's Division for verifying that everything is proper order?

CARROLL: Okay. I think that's, Mr. Wiseman can better explain that to you. But he and Miss Freeman would proof read each name and address because that's the information that would be sent on to all of the elections authorities to print their ballots off of. And they proofed each one of those sheets individually.

RICHARDSON: Would part of that proof reading include double checking to make sure that all of the information and signatures were there?

CARROLL: You'd have to ask them what procedure they used. I wasn't part of that process. But, yes, it should be, yeah.

RICHARDSON: Okay. Other than being in a supervisory

CARROLL: Yes, sir.

RICHARDSON: position and responsible for what happened there, you didn't have any hands on involvement in it.

CARROLL: That's correct.

RICHARDSON: You indicated that after this issue came up that you went through and checked all of the 500 or so other Declarations of Candidacy and forms

CARROLL: Not me personally. No, sir. I think the Attorney General's office and the County Prosecutor's office did.

RICHARDSON: And you said that you found some applications.

CARROLL: I'm aware of one.

RICHARDSON: or some packets that were not in proper form?

CARROLL: I'm aware of one. Yes, sir.

RICHARDSON: Just one?

CARROLL: Yes, sir. I think the Prosecutor still has that one.

RICHARDSON: Other than Mr. Moriarty.

CARROLL: That's correct. But this was the person who received the filing not the candidate's name that wasn't there. The candidate's name was there.

RICHARDSON: Right. But you saying there was only one out of all 500 or so that didn't have the verifying clerk's signature on it?

CARROLL: That's all that I'm aware of.

RICHARDSON: You didn't look at the Declaration form long enough to determine whether it had been completed on the 29th?

CARROLL: That's correct?

RICHARDSON: You just glanced at the top of it or . . . ?

CARROLL: Yes. If you look at one of those filing forms right in the middle is where the names appear in heavy bold and that shows you what was put into that document. The rest of its boiler plate. And all you have to do is look at the heavy bold and see the name. And that's all I looked for.

RICHARDSON: And that was the only contact that you had with it until the Grand Jury?

CARROLL: Yes, sir.

RICHARDSON: When, now when did you first find out that there was a problem?

CARROLL: It would be about the end of April, I believe.

RICHARDSON: Okay. And how did you find out?

CARROLL: Mr. Wiseman advised me.

RICHARDSON: Okay. And where were you when that happened?

CARROLL: It seems to me that I was probably over here in this building. Because I, at that

particular time we had a couple bills that were very critical and were moving through the Assembly and I spend a good deal of time over here at that particular time.

RICHARDSON: And up until that point you never had any discussion about it with anybody?

CARROLL: No, sir.

RICHARDSON: Mr. Carroll, I know it's been awhile since you gave this testimony, but on page 23 of your Grand Jury testimony, line 15, or actually let's go up a little bit further, the question was, line 4, Question: When was the first time you became involved with the Declaration of Candidacy on behalf of Tim Moriarty? Answer: Well it would have been sometime after the 29th, but I couldn't be certain of the exact date. As I recall I was passing through the Capitol office once again because I did that quite often with the lobbying effort. And I was made aware of the fact that there had been a clerical error made and that it was an unsigned Declaration. And to the best of my recollection I think it was Barbara Campbell herself who called it to my attention. In your previous sworn testimony you indicated that Barbara Campbell that was the one who came to you with it?

CARROLL: No. I believe I said I was not certain who told me, sir.

RICHARDSON: Well, your sworn testimony at the Grand Jury said - to the best of my recollection it was Barbara Campbell herself that called it to my attention.

CARROLL: It could be that she called me to the phone and I talked to Mr. Wiseman. I think I was in the Capitol when he told me about it. It just seems it was by a phone call.

RICHARDSON: Well, I mean I think it's really important to know and now you've said three things. You said something about telephones just now that you didn't before. And your earlier testimony this morning was that it was Mr. Wiseman that told you while you were in the Capitol. And here in your previous sworn testimony, which was a lot closer to the occurrence than today, you said it was Barbara Campbell. Now this is pretty critical. And I'd just like to know. I'm not accusing you of lying under oath, but I'd like to know what did happen? And how did you find out about it? And who brought it to your attention?

CARROLL: As I've said that to the best of my recollection, Mr. Wiseman told me and it was probably by a telephonic communication while I was in the Capitol. And that's consistent with everything I've said so far.

RICHARDSON: Well, it's completely inconsistent with your previous sworn testimony. Because your previous sworn testimony before the Grand Jury said that, you said specifically - to the best of my recollection Barbara Campbell told me.

CARROLL: That's correct, sir. And in the Circuit Court trial that took place, and you have a copy of that one too; I assume.

RICHARDSON: Well, unfortunately, we don't have a copy of it.

CARROLL: Oh, okay. Clarify that.

RICHARDSON: But I assume that we're going to get one.

CARROLL: Yeah. It was clarified.

RICHARDSON: What were you mistaken at this point or were you lying?

CARROLL: No. I don't lie Mr. Richardson.

RICHARDSON: Okay. I wouldn't assume that you would but you've given sworn testimony, two different locations, with two different answers and that's on a very important point.

CARROLL: I understand that but it's consistent with what my memory is.

RICHARDSON: Which is consistent with what your memory is? That Barbara told you

CARROLL: My testimony, sir.

RICHARDSON: or that Gene told you?

CARROLL: No. That Gene told me.

RICHARDSON: And you never talked to Mrs. Moriarty about it at this point in time?

CARROLL: Not at that point in time, no, sir.

RICHARDSON: She never told you to have Tim sign it?

CARROLL: No, sir.

RICHARDSON: To the best of your knowledge she wasn't even

aware of it at the time that Tim was instructed to sign it?

CARROLL: You'd have to ask her.

RICHARDSON: Okay.

CARROLL: I don't have any knowledge of it.

RICHARDSON: You didn't call Tim and tell him to come in and you don't know who did?

CARROLL: That's correct, sir.

RICHARDSON: Okay, that would be something that we could explore with Mr. Wiseman?

CARROLL: Yes, sir.

RICHARDSON: Do you know personally or should we ask Mr. Wiseman which individual would have the responsibility for auditing these forms when they came over from the Capitol to the Information Center?

CARROLL: Yes. That's Mr. Wiseman's area.

RICHARDSON: Thank you, very much.

CARROLL: You're welcome.

WITT: Representative Wible.

REP. WIBLE: Thank you, Mr. Chairman. When you went on the 29th to check for the reporter whether Tim Moriarty had filed for office, why did you go to the box instead of looking at the computer list.

CARROLL: No. Excuse me. Not the box. The folder. The boxes were still over in the other place.

WIBLE: The folder that was still in the Capitol office.

CARROLL: Yes. We hadn't taken the daily amount over because of the big rush right at the end and there was a line right at the five o'clock time.

WIBLE: Had there been a computer list, at that point, printed that would have included

CARROLL: No, it was . . .

WIBLE: his filing?

CARROLL: run after that. The same day but at probably within a half hour or 45 minutes of that time.

WIBLE: So there was no list for you to refer to?

CARROLL: Not at that time, ma'am. No.

WIBLE: All right. Were the Declarations filed upright?

CARROLL: In our facility?

WIBLE: The direction where the long part was facing up?

CARROLL: No. No it would not. They would have been filed and I think we brought you some over this morning. They're regular manila file folders. And up at the top will be, say, State Representative 136th, and then laying lengthwise in there will be everyone who filed for that office. So they're laying down rather than standing up.

WIBLE: When someone makes a request for a copy of a document, and you may not be the one to ask, to direct this question to, but do you know if there is any record kept of a

request for a copy of a Declaration?

CARROLL: I don't believe there is a record made of it, ma'am. No.

WIBLE: When you talked to Randy Sparks after you became aware that there was a document without a signature, did he inquire as to any specifics about the document?

CARROLL: Not from me. No.

WIBLE: Did, now you've indicated that he told you that it was a clerical error and could be corrected by getting, did he say by getting the signatures?

CARROLL: I don't think he said - by getting the signatures. But if it's a correctable error and that's the error I would have to, you know, that's what needs to be corrected, is getting the signature.

WIBLE: When you asked him that was that by telephone?

CARROLL: I don't know. It could have been but you know I don't really recall whether it was or whether I actually talked with him face to face. It seems to me it was face to face but I . . .

WIBLE: Do you recall whether he answered you immediately?

CARROLL: I don't know what immediately means but in a reasonable amount of short time, yes, I was answered.

WIBLE: In contrast . . .

CARROLL: I don't think it was just answered as to today Monday and, yes, it's Monday it seemed like there was some . . .

WIBLE: Did he say he had to do any research or?

CARROLL: He didn't say that to me. No, ma'am.

WIBLE: Did he give you the answer within that same conversation?

CARROLL: If it wasn't then, it was within a few minutes after that, yes.

WIBLE: And that would have been while you were present in his office?

CARROLL: I don't think we were in his office. It might have been in my office, as a matter of fact. I don't know, you know.

WIBLE: Where is his office in relation to yours?

CARROLL: It's in the State Information Center on the same floor that ours is on. He is over in one corner of that floor and we're back in the other corner.

WIBLE: So you frequently see one another? Pass each other I guess.

CARROLL: At that particular time very frequently because he was also engaged in the legislative effort to help get bills passed through the General Assembly.

WIBLE: Now, did you request a legal opinion in writing from him on this issue?

CARROLL: No, I did not.

WIBLE: Do you frequently ask for opinions as to how to handle something in the office where you need a legal opinion?

CARROLL: Very often.

WIBLE: And how many, percentage wise, of those times do you request that it be in writing?

CARROLL: Hardly ever.

WIBLE: And for what purpose would you request something in writing?

CARROLL: If the person asking us the question wanted a written response to their inquiry rather than an oral response, because most of the questions that we deal with probably come from other election authorities in the state. It's usually a situation where a local Prosecutor doesn't have the time to give them the answer or they just need something right away. Somebody's standing they're and their trying to get an answer for somebody.

WIBLE: And who normally makes those requests? People from outside of the Secretary of States office?

CARROLL: Yes. They'll ask us the answer and if we don't know the answer, then we have to ask our legal counsel.

WIBLE: So you freely, or he freely gives a legal opinion that could be communicated by you verbally to someone else without documenting those in writing.

CARROLL: Yes.

WIBLE: Now your purpose of looking at the documents on the 29th was to answer a reporter's question?

CARROLL: Yes.

WIBLE: As to whether Tim Moriarty was a candidate?

CARROLL: Yes.

WIBLE: Were there other reporters that asked you about his candidacy?

CARROLL: No, that was the only one who did. There were several in the room on the last day of filing, obviously. There was like maybe eight or nine reporters.

WIBLE: And prior to that time you had not been, no one made inquiry to you?

CARROLL: I didn't know he was a candidate then, till he asked me.

WIBLE: How about following the 29th, did you receive any other inquiry?

CARROLL: No.

WIBLE: And it's my understanding from your testimony today that you did not receive either an inquiry from the Secretary of State about these documents and that you also did not go to her to tell her anything that you knew about the documents?

CARROLL: That's correct.

WIBLE: You did not talk to her directly at any time?

CARROLL: Not till all this came up. Yeah.

WITT: I want to follow up on that. Did Mr. Wiseman indicate that he had talked to the Secretary of State or Mr. Sparks?

CARROLL: Not to me, he didn't, Mr. Chairman.

WITT: Okay. So you just, he

told you there was a problem?

CARROLL: Yes.

WITT: Okay. Representative Shelton.

REP. SHELTON: How many people work in the Election Division?

CARROLL: There are four working in the Elections Division.

SHELTON: Do you know who called Tim to have him come in and sign his form?

CARROLL: No sir. I do not.

SHELTON: Do you know anything about the computer system?

CARROLL: No, I'm afraid not. I'm practically illiterate when it comes to that. I can use, write a letter on it and that's about it, Mr. Representative.

SHELTON: Is it normal for a candidate to get a copy of his Declaration?

CARROLL: No, sir, I don't think we hardly had anybody request a copy of their Declaration of those that we took this last time. I don't recall anybody asking for one.

SHELTON: Okay. I've been here six terms and I've never gotten a copy and I was wondering. When you look at Tim's Declaration you didn't look at any of the details?

CARROLL: No, sir. I looked at just the heavy dark print to see if that was his name.

SHELTON: Who are the four people who work in the Election

Division?

CARROLL: Shelly Brown, Margaret Freeman,

SHELTON: Wait a minute. I'm going to write this down. Shelly Brown?

CARROLL: Yes. Margaret Freeman,

SHELTON: Margaret Freeman.

CARROLL: Gene Wiseman.

SHELTON: Wait a minute.

CARROLL: And myself.

SHELTON: Mr. Joe Carroll. You're in charge of this division?

CARROLL: Yes, sir.

SHELTON: Did, oh never mind, that's all.

WITT: Representative Gaw.

REP. GAW: Thank you, Mr. Chair. Joe, as I understand it, there is a computer printout generated on the date, every date that filing is open.

CARROLL: That's correct.

GAW: Now, there is one computer printout or two or three, how many are done that are the same? That are different rather? Are there different candidate filings?

CARROLL: No. They're all on the one printout. And it starts out with the highest office that's up that time, which in this case would be the United State Senate. Then it lists all of those candidates for that office, regardless of party, the date they filed and the time they filed, and it continues on

through all of the Circuit Court Judges that are up this time.

GAW: Now that particular printout is that the same printout that is posted outside of the Secretary of State's office everyday?

CARROLL: Yes, it is. As a matter of fact, commonly what they would do is make one printout from the computer and then take it to a copier and use the sorter and go ahead and make multiple copies of the same print out.

GAW: So if someone had filed, for instance, on the 21st of March. That particular printout will not only show the candidates that filed that day, but also those that filed previously.

CARROLL: That's correct. It's an accumulative list.

GAW: So if any individual is interested in seeing all of the candidates that are running for a particular office, all they have to do is go look at that list. Is that correct?

CARROLL: That's correct.

GAW: And in fact if an individual is interested in knowing what opposition they might have to themselves in the race, that is the place to go check it.

CARROLL: That is the place to go check it.

GAW: That particular printout, is it kept elsewhere in the Secretary of State's office other than outside of the door?

CARROLL: We took one with us everyday back over to the

Information Center just to handle the phone calls we would get on, from people, or candidates, or other candidates or from the press corporation that had wanted to know who had filed.

GAW: All right.

CARROLL: I think a copy of it went probably to the Democratic and Republican leadership in the House on a daily basis.

GAW: Was there also a printout that would only have those individuals that had filed for office on that day?

CARROLL: Not normally but during the Grand Jury's inquiry of the matter they asked the computer programmer to give them a printout only of the people who had filed on the 21st and the 29th.

GAW: Okay.

CARROLL: And we do have that and I believe we brought you a copy of that over.

GAW: I believe that's correct. But that was generated by request. Is that correct?

CARROLL: That's absolutely correct.

GAW: But the computer has the capability of fulfilling that request.

CARROLL: It must have, because it gave it to us.

GAW: It did it, didn't it. Yeah. And on that there is no listing on that sheet to show that Tim Moriarty filed on the 21st?

CARROLL: That's correct.

GAW: But there is one showing that he filed on the 29th. Is that correct?

CARROLL: Yes, it is.

GAW: And that is consistent with what your knowledge was of the situation as of the 29th of March. Is that correct?

CARROLL: Yes, it is.

GAW: Now there is also money taken, I believe you said. Is that correct?

CARROLL: Yes. In some cases the people have not gone to the party and paid their filing fees. So the parties had left blank receipts and they would give the person a receipt if the money was paid in the office. And then two copies of the receipt would come back to us. One with the filing document and then the following day we would return the money and the filing of their copy of the receipt to the party involved.

GAW: Okay. Now where was that receipt kept if it was paid to the party ahead of time?

CARROLL: Mrs. Freeman could tell you the exact location of that because she handled those transactions. And our copy was kept with the filing paper.

GAW: Okay. And that was kept in that candidate's file?

CARROLL: Yes, it was.

GAW: Now if the candidate had not filed or had not prepaid their filing fee and paid at the time they were filing, how was that kept together or where was that kept? The money for the filing.

CARROLL: It would come over

at the end of the day with the filing papers.

GAW: Okay.

CARROLL: And the next day we would call the party to come and get the money.

GAW: So it was not, it did come over to the Information Center?

CARROLL: Yes, it did.

GAW: With the filing paperwork?

CARROLL: Yes, it would.

GAW: And was someone there the check to make sure that either an individual had prepaid or that the filing fee was paid and was with that paperwork?

CARROLL: Yes.

GAW: And whose responsibility was that?

CARROLL: That fell under Mr. Wiseman's checking of the Declarations. They would be stapled together. The receipt, the work paper, and the actual Declaration.

GAW: All right. And in the event that the money or a prepaid receipt were not in the file, I assume at that point somebody would say, "We've got a problem here to be looked at."

CARROLL: Yeah. That situation didn't come up, so apparently all the money was there to match the filing.

GAW: All right, so you're not aware of any situation like that from this year?

CARROLL: That's correct.

GAW: Now those same individuals under Mr. Wiseman or with Mr. Wiseman, they were also the ones responsible for checking the candidate worksheet and the candidate Declaration. Is that correct?

CARROLL: Yes. They really checked closely the spelling of the name in particular and the address, because that is going to be perpetuated through the entire election. That's the name that will appear on the ballot and . . .

GAW: And that information is in the middle of the Declaration. Is that correct?

CARROLL: That's correct. Yes.

GAW: And this is a single page document?

CARROLL: That's correct.

GAW: And the signatures are suppose to be at the bottom of that page?

CARROLL: That's correct.

GAW: So if you check that area you're going to see, I would assume, the area where the signatures are also. Is that correct?

CARROLL: Right.

GAW: And if they discovered a problem with the document at that point, then what would normally occur?

CARROLL: Well, they didn't discover any, or they would have called it to my attention.

GAW: You were, it was not called to your attention that there was any problem with any other filing through out the

entire period when filing occurred this last, this year.

CARROLL: That's correct.

GAW: Okay. But if there had have been, would have been a problem discovered, then you would normally have been contacted. Is that correct?

CARROLL: Yes. I would.

GAW: Now in fact the Declaration that we have been furnished a copy of that was in the Secretary of State's file originally on the 29th did have a problem. Is that correct?

CARROLL: That's correct. (End of tape #1)

GAW: Can you explain to us, why that was not discovered on the 29th?

CARROLL: No, because I was not involved in the checking of it, so I couldn't tell you.

GAW: But you do know that it was checked?

CARROLL: Yes.

GAW: You also sent copies of the candidate filings out of the office at the end of every day, am I understanding that correct?

CARROLL: No. We wouldn't send copies of filings out of the office everyday.

GAW: Maybe I'm phrasing my question so that it doesn't sound like I'm getting the same information. What I'm after is that you sent something to the County Clerk's if someone had filed in a particular race, is that correct?

CARROLL: Only after we are

all through and the time for withdrawal has ended, we then produce a booklet called "Candidate Filings" and we certify to them the name and the address of each candidate filing for each office and they are required by law to publish that in the paper. And that is why we check the name and the address so closely.

GAW: When does that occur?

CARROLL: The final date for withdrawal this year I think was around May 10 and so the publication of that document would have then been sometime after that. It probably would have been the later part of May.

GAW: In particular this would have been, does that document show the time when a candidate filed also or the date?

CARROLL: No, it does not. Only that they have filed and their address. The computer printout is the only thing, besides the original document that would capture the date and the time.

GAW: Representative Shelton asked you earlier in regard to giving a copy of this declaration out when someone files, you've participated in filing some candidates haven't you?

CARROLL: Yes, sir.

GAW: Was it normal for you to give a copy out of that declaration to the candidate?

CARROLL: No, it's not.

GAW: That is not normal procedure, is it?

CARROLL: No, it's not.

GAW: Again, who are the individuals that would be checking this paper work when it comes over to the Information Center?

CARROLL: It would be under Mr. Wiseman's direction, Mrs. Freeman and if he used Shelly Brown, Shelly Brown. There is only four of us in the whole division.

GAW: No other administrative assistants, secretaries, anyone else that works in that Division?

CARROLL: No, sir.

GAW: How often in the spring of this year would you see the Secretary of State on a daily basis?

CARROLL: Not on a daily basis at all.

GAW: On a weekly basis how often?

CARROLL: Maybe once or twice.

GAW: In what capacity would you normally see her, would it be something where you just pass her in the building, did you have weekly meetings?

CARROLL: No. It would be just a passing while I was in the Capitol lobbying, if I came in to get some messages, and she happened to be there I might.

GAW: Normally when you saw her where was that?

CARROLL: In the Capitol Office.

GAW: Here in this building.

CARROLL: Yes.

GAW: And that is because you were coming over here, is that correct?

CARROLL: Yes, sir.

GAW: Does she normally stay here, is that correct?

CARROLL: That's correct.

GAW: And this is the same office outside which this posting of the declaration of candidates is?

CARROLL: Yes, sir, on the second floor

GAW: And when she goes in and out of her office is that next to the doorway to where this posting is?

CARROLL: Yes, it would be

GAW: I don't think I have anything else.

WITT: Representative Richardson I believe you had a follow up.

RICHARDSON: Yes, thank you very much. Mr. Carroll, let me apologize if I can, I wasn't implying that you were lying but I am concerned about some inconsistencies and I understand that you have given testimony on at least three different occasions prior to today at different times. Some times it is easy to have things that appear to be inconsistent, but it is really critical. And I'd like to try to get to the bottom of it. In addition to the Grand Jury testimony where you had said that you thought it was Barbara that first called to your attention, I notice that in your sworn statement that you gave six days prior to that, on page seven, questioning from line nine. "As I recall I was

advised by someone in the Capitol Office, while I was in the Capitol on other business, that it had not been signed." Question was: "Was Barbara Campbell the person that informed you of this?" Answer: "To best of my recollection, yes." Then that is consistent with your Grand Jury testimony and both of those are inconsistent with your testimony today. Do you know, can you tell us what caused you to remember it differently on the 24th and 30th of June from what you remember today?

CARROLL: The testimony in the Circuit Court, I think, will also say that I remembered talking to Mr. Wiseman about it and I believe that I was in the Capitol Office and I got the phone call when I was there, in the Capitol Office, from Mr. Wiseman. Trying to say why you remember things and why you don't remember things, I couldn't tell you. It wasn't a significant thing to me at the time. I was more concerned with the legislation that was critical to us. I was giving you the best answer I could at the time. When they asked the question, and I believe in every instance, I've said that I'm not crystal clear.

RICHARDSON: You go on in your sworn statement with the follow up question with "Who was present when she told you this?" and your answer was again "As I recall, Randy Sparks and Carolyn Smith." Does that help you any? Do you remember?

CARROLL: No, because we were together quite often on the legislative effort. And it would not be inconsistent that we were all together. But, then again, I couldn't say absolutely,

positively.

RICHARDSON: At any rate, you are crystal clear that it wasn't Judi Moriarty that told you about it?

CARROLL: That's correct, sir.

RICHARDSON: And you are crystal clear that she never instructed you to have any signatures placed on it?

CARROLL: That's correct

RICHARDSON: You indicated that Gene came over at the beginning of the election filing period and trained some people to actually do the filings. Since all the filing took place here in the Capitol, who specifically was in charge of and who was authorized to file a candidate?

CARROLL: The three ladies that worked in the Capitol Office, which would have been Barbara Campbell, Nadine Barrows, and Juli Rodenburg.

RICHARDSON: And they, of course, did the bulk of the filings. But I think you indicated that someone said somewhere along the line maybe the first day or maybe the last day was kind of a crowd, so there were some other people helping

CARROLL: The first day, Mr. Wiseman and myself both came over and then the last day for the last hour we came over again and basically helped with crowd control.

RICHARDSON: When Gene came over to train, do you know if Judi Moriarty was present, if she went through the training herself?

CARROLL: No, sir, I do not.

You can ask him, I'm not familiar with that. I wasn't present when they did the training, so I don't know.

RICHARDSON: Would it be conceivable that the Secretary, who has a lot of different divisions and a lot of different responsibilities, might not be aware of what the specific procedure is for becoming a candidate?

CARROLL: You would have to ask her. We have written instructions on the procedure.

RICHARDSON: But to the best of your knowledge though, other than you and Gene and these three ladies, no one else actually did any filings. So I assume from that Judi Moriarty wouldn't be out there physically involved in filing people herself?

CARROLL: That's correct. I think she was there on the first day to greet people as they came in.

RICHARDSON: Mr. Carroll, we were given a letter that was written by Barbara Campbell on June 14th. And she talks about you in this letter. She directed this to Secretary Moriarty. And she said, "I wanted to inform you that it is very important that no one from this office, including Jim Kolb or Joe Carroll, make any negative or damaging comments about me or Charles. If this happens either publically or informally, I will be forced to reveal the details of your son's candidacy." Why would Barbara Campbell be concerned about whether you were going to say something bad about her? Was there some bad blood between the two of you?

CARROLL: No.

RICHARDSON: Does that come as a surprise to you?

CARROLL: Yes, it does.

RICHARDSON: Had you had any cross words or differences of opinion with Barbara or any difficulties?

CARROLL: None.

RICHARDSON: You weren't responsible for supervising her.

CARROLL: No.

RICHARDSON: And you did have some contact with her though, apparently, when you were in the Capitol. She worked here in the Capitol.

CARROLL: Surely, that's correct.

RICHARDSON: You don't have any idea why she might be afraid you might say something about her?

CARROLL: No, sir.

RICHARDSON: You were aware of some differences between her and Mr. Kolb?

CARROLL: Yes, sir.

RICHARDSON: Was that pretty much common knowledge in the Secretary's Office?

CARROLL: I would say it would be, yes, sir.

RICHARDSON: I don't have any other questions.

WITT: The only other thing is does Shelly Brown still work at the Secretary of State's Office?

CARROLL: Yes, he does; he is working today, sir.

WITT: Let me ask you this, because we did not subpoena him and it sounds like he may have some information relevant. Would he be available, do you think, to come over and appear before the committee later today?

CARROLL: Anytime.

WITT: Would you relay that we would like to have him here around 1:00 or so, I'm not sure exactly when we will call him. But if you would have him come over and check in with the doorman to let us know that he is here and then go over to hearing room 8, we will try to get him in and out as quickly as possible. But it does sound like he will have relevant information.

CARROLL: Okay.

WITT: Thank you very much. Is there any further questions that you, sorry it looks like we've got a couple others. Representative Wible.

WIBLE: Thank you. When you talked to Randy Sparks about what to do to correct this error, you indicated just a few moments ago that there was no discussion about whether or not the documents, whether or not you should get the signatures. It was just correct the clerical error. That's what I understood you to say. Is that correct?

CARROLL: Yes, I think that the, as best I can recall again, he was made aware of the fact that we had the unsigned document and whose document it was. And what could we do about it, and it was a correctable error.

WIBLE: And I was just looking back through your Grand Jury

testimony. You said he, speaking of Randy Sparks, "His opinion was that it was an error on our part," and that "The person should be allowed to correct the error and sign the declaration." Then a couple of pages later you said, the question that was put to you was: "Well when you asked Randy 'how do you correct this?' and he said 'Get the signatures.' Did you direct somebody else to do that?" Your answer was, "Yes, it seems to me that either I instructed Barbara Campbell or Gene Wiseman that it could be corrected and have him come in and sign it." So is it possible that you did direct someone to get the signatures?

CARROLL: No, the response relayed to Gene was that it was a correctable error and that we can correct the error. The assumption would be if the error is a lack of signatures, then you can get the signature.

WIBLE: But you don't believe that, as you stated in the Grand Jury testimony, that you actually said "Get the signatures"?

CARROLL: No. And I don't have any knowledge of how any signature is on the document.

WIBLE: And do you have any idea why at that time you would have thought you were communicating with Barbara Campbell about this?

CARROLL: No, because so much had been said written about and told, that you become confused in your own mind, sometimes as to what is actually happening. Not that you doubt yourself but that you kind of, but at the time it was not a major thing that I was involved in the

filing of candidates. And the best I recall the Grand Jury testimony centered around getting the signature from the standpoint of do you penalize somebody who came to file because you made a mistake. I think that was the gist of most of that, at the time.

WIBLE: And you assumed that that was what had happened, from the knowledge that you had. Which, it's my understanding that the only knowledge you had of what had actually happened was that there was a document in the file and it had no signatures. So from that you made the assumptions that everything else had been done properly, but no one had signed?

CARROLL: Sure.

WIBLE: Barbara Campbell was not located in the same building as you were, as the documents were, at that time?

CARROLL: Right.

WIBLE: So would there have been any reasons for anyone to direct Barbara Campbell to get signatures or a signature?

CARROLL: I don't recall offhand. The ethics committee about that time was removing some people from the ballots and different offices were being reopened for filings. And all filings were continuing to take place and did take place in this building before that whole scenario.

WIBLE: I'm sorry, say, I lost you there.

CARROLL: You said was there any reason for someone to direct Barbara to have her correct the

signature? I don't know. There were filings going on over here at that time.

WIBLE: What filings?

CARROLL: Ethics removed about seventeen people for failure to file documents. In some cases it was the party's only nominee and in that case the filings were reopened for five days. And then there was some movement on the U.S. Senate race that required some filings to be reopened. And then there was a State Senator that passed away and filings reopened again. All that took place in this building.

WIBLE: So there were some documents that were in your division that were transferred back over to the Capitol?

CARROLL: No. None came back over to the Capitol, just original filings. Filings were continuing to be taken over here, new ones.

WIBLE: So, to your knowledge, there would have been no other transmittal of an original document from your division back over to Barbara Campbell to get someone's signature?

CARROLL: That's correct.

WIBLE: And you don't recall at this point whether you had any discussion with Barbara Campbell about the unsigned document?

CARROLL: No.

WIBLE: Do you recall whether Barbara Campbell's signature was on it.

CARROLL: Whether her signature was on it?

WIBLE: Do you recall whether you noticed her signature?

CARROLL: No, the only time I looked at her signature was when Mr. Lee came to get it.

WIBLE: You looked at them when, when Mr. . . . ?

CARROLL: When the Grand Jury came to get the documents.

WIBLE: That's the first time you actually looked at those signatures lines?

CARROLL: Yes.

WITT: Representative Gaw.

GAW: Thank you Mr. Chair. I'm going to ask you about this ethics removal, this removal because of failure to comply. What are you talking about? What kinds of failure to comply would cause them to remove a candidate?

CARROLL: I think under the new ethics law in Chapter 105 or 106 they are required to file personal financial disclosures after they become a candidate. Then if they fail to do so, the penalty, after they have been warned by ethics, is that they are removed from ballot.

GAW: Do you know what the deadline is on that?

CARROLL: No, it's whenever they're, no, you'd have to ask ethics, because we get a letter from them and they give us a list of candidates.

GAW: Is this some time in April or May?

CARROLL: May, because the filings are closed off in the last Tuesday in April.

GAW: Are you aware of this document that the Secretary of State was in the process of filing for, for her son?

CARROLL: No, I don't have any knowledge of that.

GAW: Have you heard about it?

CARROLL: Yes.

GAW: Do you know what kind of a form it was?

CARROLL: I think that was a campaign finance disclosure.

GAW: That's not the same form.

CARROLL: No, there are two forms. One is an ethics disclosure, requiring personal financial disclosure of your assets, I believe. And the other has to do with your candidacy for the office and your collection and distribution of money for that office.

GAW: And you believe it to be the campaign finance disclosure? That the Secretary of State was involved in, in preparing for her son?

CARROLL: Just from what I have heard, yes.

GAW: You do not know one way or the other, but that's what you believe.

CARROLL: That's right.

GAW: Does that require a signature?

CARROLL: Yes, both documents do.

GAW: By the candidate?

CARROLL: Yes.

GAW: Gene Wiseman is?

CARROLL: The Director of Elections.

GAW: And his supervisor is?

CARROLL: Myself.

GAW: And who other than you would be over Mr. Wiseman?

CARROLL: Secretary of State.

GAW: No one else.

CARROLL: That's correct.

GAW: So, Mr. Wiseman would take instruction from only the Secretary of State or you?

CARROLL: Yes.

GAW: Barbara Campbell, at that time in March of this year, who was her supervisor?

CARROLL: That I'm not familiar with, who ran the office over here in the Capitol. I don't know if they have an in-house chief of staff or not. If they do not it would either be the administrator deputy or the secretary. The administrative deputy being Jim Kolb, and the Secretary herself.

GAW: You are not her supervisor.

CARROLL: No.

GAW: Gene Wiseman is not her supervisor?

CARROLL: No.

GAW: She did not, at that time, take direction from either of you?

CARROLL: That's correct.

GAW: Nothing further.

WITT: Thank you very much for taking time to appear before the committee.

CARROLL: And I'll tell Mr. Brown one o'clock.

WITT: Thank you very much. We may not get him right at one o'clock but we will try get him as quickly as we can there after. We are going to take a five minute recess and come back, I would like to switch it on our list of witnesses. We have Randy Sparks appearing next. It appears Gene Wiseman may have some more detail to give to us. And I think we'll call him first and then Randy Sparks.

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WITT: Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth and nothing but the truth, so help you God?

GENE WISEMAN: I will.

WITT: Will you state your name and where you live?

WISEMAN: Gene Wiseman, 1406 Major Drive, Jefferson City, Missouri.

WITT: Okay, and what is your occupation?

WISEMAN: Director of Elections, Secretary of State.

WITT: And how long have you been served in that capacity?

WISEMAN: Since April of 93.

WITT: In that capacity do you directly oversee all of the filing of candidates?

WISEMAN: Yes, sir.

WITT: And you have served in that capacity since you first started with the Secretary of State's Office, is that correct?

WISEMAN: Yes, sir.

WITT: Why don't you just go through for us real quick. We've heard it and we've all been through it ourselves. But can you go through quickly, what happens when a candidate comes to the Secretary of State's Office to file?

WISEMAN: A candidate must have either in hand or receipt from their respective parties or the monies to pay the parties for the filing fee. Or for the monies that are required to run for that office. A worksheet is given to the candidate to fill out. The worksheet has the information we need as far as the name, the address, the district being sought or the office being sought, the districts from which the candidate resides and is running from. The information also includes the name the candidate wishes to be placed upon the ballot, other information regarding their voting precincts and so on so forth. That information is then used to generate a declaration of candidacy from the computer system. That declaration of candidacy is then the actual declaration of candidacy signed by the candidate and placed in the files.

WITT: That declaration of candidacy is all done by the

computer on every instance.

WISEMAN: It is. We did have a back-up in case everything went down. We had a pencil paper back up, just a hard copy, but it was planned to be done totally and was done on the computer system.

WITT: Okay, so you never had to use the paper pencil backup?

WISEMAN: No, we had it on stand by. And the computers did go down on opening day. But we were able to bring them back up and limp through for a period of time until we got them running successfully.

WITT: When did you first find out, well, were you first aware that Tim Moriarty had filed for office or attempted to file for office and at what point?

WISEMAN: I was aware of it after the closing deadline, which was the last Tuesday in March, that Tim Moriarty had filed for a Representatives office.

WITT: And how did you become aware of that?

WISEMAN: It was through the checking of the records. The records were, of course, the filings were done in the Capitol Office 208, the Capitol Building then those filings were brought back over to the Missouri Information Center where we work on the third floor. It was upon, after receipt of those records, we each day also got a generated cumulative report of the candidates that filed. And it was cumulative from beginning to that point in time, so we would check those against the name on the worksheet.

WITT: So the candidate comes

in and fills out the paperwork, the declaration of candidacy is put together, that's put in a file and entered into the computer each night, twice a day, more often than that? How often did you get those documents and take them over to the information center?

WISEMAN: Once a day.

WITT: Was that after five o'clock?

WISEMAN: After five o'clock.

WITT: After five o'clock, who came over to get those? Was it always one person. Or a courier or who?

WISEMAN: We used various people, normally it was somebody within our office or the courier.

WITT: So you may have had a courier pick it up?

WISEMAN: Possibly. Yes.

WITT: Was there any security to make sure that somebody didn't remove somebody's information from the file or change the information in the file or do something different? How did you protect the integrity of the candidate filings?

WISEMAN: We would check that back with, we would check what we did that evening or at least what was brought back over that evening, we would place it in the records room in the Secretary of State's Office there in the Information Center. Then usually the following day we would check that back with the cumulative list and make sure that that name was on the cumulative list.

WITT: The cumulative list, does that include the date and time each individual filed?

WISEMAN: It does.

WITT: Okay, so you know what order they are going to appear on the ballot?

WISEMAN: Yes.

WITT: Who actually did the checking of those documents when they came back over to the Information Center.

WISEMAN: They are normally done by Margaret Freeman. And she would proof it with me. Generally was with me. (End Tape #2)

WITT: What do you mean, proof it with you?

WISEMAN: Proof the name. She would take the document itself and proof the name back with the name on the list. Margaret has been with the Secretary of State's Office in Elections for a number of years. And conveyed to us that the priority was that name must be exactly the way, that name should appear on every document that's posted or every document that is given out as exactly that name is on that document that is filled out by the candidate. Any misspelling, any name variation, any type of alteration of that name would cause a lot of problems with publicity and those sort of things. So she proofed those back with me, or with someone else.

WITT: So she would go through first and go through all of the documents, make sure all of the information was on there, that all of it was correct, there

weren't any mistakes that were made. And then she would then go back through with you, or with someone else, to proof the names. Is that, am I understanding you correctly?

WISEMAN: That is very close or basically the way it would work. I don't know that . . . I think the name was checked probably by her most frequently or covered the most, between the work sheet and the name on the center of the declaration itself, to make sure that the name was actually on the declaration that was to be used on the ballot.

WITT: When you went through those, did you go through them every night for the day before?

WISEMAN: We would try to, but, no, that wasn't always the case. There were many times when we were not able to proof back for two or three days at a time. At that point in time, the April election was a Riverboat Gambling issue, statewide election. Of course, you remember it was a very close election, within 1% tolerance. Therefore, the riverboat people asked for and requested and was granted a recount. We were in the middle of the recount process also, along with certifying the election. Those sort of things.

WITT: Okay, so that recount started after the April election, correct?

WISEMAN: It did.

WITT: So it wouldn't affect the March?

WISEMAN: Actually it did, Mr. Chairman. And the reason I bring that in, is that our office also keys in the numbers from every individual precinct in the

State on that particular issue, on the amendment to allow games of chance in the State of Missouri. So our office was keying in those numbers to get that certification out by the third day, Thursday, following the election, so that that could be certified.

WITT: That election was held when?

WISEMAN: April 5, you're asking me the question "Prior to April." At that point in time we were preparing for the April election and for all the municipal elections in the political subdivisions. I got a step ahead of myself.

WITT: Do you recall when or if the declarations were filed on the 21st of March? When would they have been proofed?

WISEMAN: No, I don't recall when, if they were proofed that night, probably not that night.

WITT: They were probably, but you had to put the computer list out. So you had to do something with them that night wouldn't you?

WISEMAN: We would have probably, yes. We would have had that packet of names that came over.

WITT: Okay, now did you all prepare the computer list that was then posted outside the Secretary of State's Office?

WISEMAN: No, that comes directly from the Declaration of Candidacy entered into the machine from the worksheets. And that was done at the Capitol Office.

WITT: The 29th was the last

day of filing, as I understand it. Now, the 29th, were you going through and checking all of those with Mrs. Freeman? Were you going through those that filed that day?

WISEMAN: We did not. Not the last day.

WITT: When did you proof those for the last day?

WISEMAN: It was soon afterwards. I would, I believe it was probably the next day. I can't say for sure it was the next day. We would try to go ahead and wrap up that final day's filing.

WITT: Would it have been when you were proofing those that you first were aware that Tim Moriarty was a candidate?

WISEMAN: Yes.

WITT: Did you and Margaret Freeman proof those? Did you actually see the declaration of Tim Moriarty?

WISEMAN: No, I didn't.

WITT: How did the proofing system work? Were you involved in the proofing of Tim Moriarty's name for the ballot?

WISEMAN: Not that I recall. I would check the computer generated list that would come over to us from the Capitol. And I don't recall that name popping out at me.

WITT: Your boss's name didn't pop out at you?

WISEMAN: No.

WITT: So you became aware of Tim Moriarty's filing, at what point and how?

WISEMAN: Soon after the, I am guessing it was during that proofing process. Probably the following day, after the 29th, while going through the complete list. Those lists began at U. S. Senator and end, of course, at the Circuit Judges. And we went through every name and at that point in time . . .

WITT: Final proof of the final list, or what should have been the final list with a few extras at the end of that, but . . .

WISEMAN: As they were to appear on ballot in the order that they were to appear is the way . . .

WITT: It's important to know when someone filed, to know the order that they are going to appear on the ballot?

WISEMAN: That's correct.

WITT: And you went through that list probably the 30th, the day after the closing date of filing. And that's when you became aware that Tim Moriarty had filed. When you went through that list, were you comparing them with the candidate paperwork that was filed?

WISEMAN: We were basically comparing them with the name on the work sheet to make sure that the name was correct on the computer generated form.

WITT: The computer form, that's the declaration of candidacy?

WISEMAN: That's right. And the time stamp, two main criteria because to make sure that name is positioned correctly on the ballot.

WITT: So you were going through that list to make sure that everybody was listed correctly? And how was it done with Margaret Freeman? Were you looking at the Declaration of Candidacy and she was looking at the list, or were you looking at the list and she was looking at the Declarations?

WISEMAN: I was looking at the list most of the time, as I remember.

WITT: When you were going through that, did you find any declarations of candidacy that there were problems with, that needed to be corrected in any manner?

WISEMAN: I don't recall any.

WITT: So you were checking the time and date stamp.

WISEMAN: Excuse me, let me clarify that. The XM is the one thing that we look for also. And that was a problem, the XM being the time that was stamped on each work sheet during the noon hour. We had a problem with the computer system, in that it would not time from 12:01 noon to one o'clock. Instead of giving us a time during the noon hour, it would give us an XM. Each time we saw an XM pop up on the computer generated printouts, then I would ask what time that was on the stamp. And we would relate to that.

WITT: So you would look back to the second page which was the hand filled out document that had the actual stamp on it?

WISEMAN: Correct.

WITT: And you always made sure that you had either the

time and date stamp or the time on the Declaration of Candidacy to make sure that you clarified those?

WISEMAN: We always went with the time stamp, because the time stamp was our official stamp.

WITT: So did you always look at the time stamp, or did you sometimes go by what was on the Declaration of Candidacy?

WISEMAN: I believe we normally went with the time stamp, that was our official

WITT: Okay. So you were looking at both pages or Mrs. Freeman, was going through both pages on each individual. Were you also checking to make sure that the money had come in, that there was a receipt?

WISEMAN: That was Margaret's job to make sure that the money was correct. And I'm sure she did that. She is very conscious of the money that flows through the office. We don't handle the money, normally.

WITT: Obviously, the political parties didn't call you and say they've been short changed.

WISEMAN: No, but she did have them come each day to pick up that previous day's monies that came in. On the first and last days there were, I believe that's correct, on the last day there were tables set up for the parties so that they took the monies then. We didn't have to handle the flow of cash or checks.

WITT: Now, did you see any problems with Tim Moriarty's

Declaration of Candidacy, or did Margaret Freeman draw any problems with it to your attention at that time?

WISEMAN: Not that I recall, no.

WITT: Were there any other ones that you had problems with besides the XM? were there any other problems that frequented or that came up that had to be corrected other than the time?

WISEMAN: Not that I'm aware of.

WITT: Were there any that would have had the date left off, as well as the XM, on the Declaration of Candidacy?

WISEMAN: I don't believe there would have been.

WITT: So there were no problems that you found on any of these, with the exception of a few of them that were timed in between 12:01 and one o'clock in the afternoon that had an XM and then you wrote the

WISEMAN: Many of those. What we did was, I would relay that XM information back to Hal Hal Hebert is our computer operator-or Nadine Barrows at the Capitol Office, and then that would be entered into the machine. So that we could get the printout with the correct time on it.

WITT: So you actually created the new Declaration of Candidacy that had the correct time on it?

WISEMAN: No, that was a computer generated form that had the cumulative line of candidates.

WITT: You made it correct on the master list?

WISEMAN: Yes, many, many, questions occurred from people that passed the posted list in the hallway of the Capitol, when there wasn't a time after the name. So we would try to get that time corrected as quickly as we possibly could in the computer generated form.

WITT: So when you got to Tim Moriarty's name, yourself or Margaret Freeman didn't say "We've got a problem, there's no signature here?" Were there other ones that didn't have the person, the attestation, the person that took the information, their signature on it?

WISEMAN: My knowledge now or my knowledge then?

WITT: Your knowledge then.

WISEMAN: I did not know of any.

WITT: Is that an important part of filing, being attested by an employee of the Secretary of State's Office to make sure that the

WISEMAN: It is.

WITT: At that time you were not aware that there were some that had not been signed?

WISEMAN: I was not.

WITT: Today, are you aware that there are any that were not signed?

WISEMAN: Yes.

WITT: Do you know how many?

WISEMAN: I do not.

WITT: Do you have any approximation?

WISEMAN: I do not. A small number.

WITT: 10, 15, 100, 20.

WISEMAN: Not a 100, I'm going to say in the teens or less. I was made aware of it by actually rechecking for the Prosecuting Attorney's Office.

WITT: Did you do any checking to figure out who it was that had filled out most of those that the signature was missing, or were there more than one individual? You didn't do any checking on that?

WISEMAN: We did check some. We went through, just the other day. It's been about a week ago, just to go through the files again to see because of some of the requested files through the trial proceedings. Joe and I went back through some of those just to see and we wound up with just a couple. But it was no certain person that did it. One happened to be one individual. One happened to be another.

WITT: To your knowledge was there ever a time when a candidate would come in and fill out the paper work, but that paper work would be held or not filed at that time?

WISEMAN: No, sir.

WITT: Would there be at any time with any candidate where it would be file stamped, or the stamp of time and date would be put on it, but yet it was not officially entered at that time or there was additional information that was needed later?

WISEMAN: No, sir.

WITT: So before it could be file stamped, you had to have all the information, the payment had to be made, everything had to be done before you could file stamp that and enter it into the computer?

WISEMAN: Yes, sir.

WITT: You are not aware of any time when it was done differently?

WISEMAN: No, sir.

WITT: When did you first become aware that there was a problem with Tim Moriarty's Declaration of Candidacy?

WISEMAN: I believe, Mr. Chairman, it was in the late April or early May area.

WITT: How did you become aware of that?

WISEMAN: As I have said before, it was a phone call made to our office requesting something to do with the filing of Tim Moriarty. And that's how it was found.

WITT: Okay, you received a call. Was that call directed to you or someone else in your office?

WISEMAN: I do not remember whether it was a direct call to me or not.

WITT: Okay, but your office received a call. What was the nature of that call, were they asking for the document?

WISEMAN: They were asking for the document. Something informational concerning the document. I do not remember the exact request.

WITT: Okay, and you don't know who made that request?

WISEMAN: No.

WITT: Did the Secretary of State make that request, to your knowledge?

WISEMAN: I don't know.

WITT: You don't know if it was a woman or a man?

WISEMAN: It wasn't made to me directly, that I remember. I just don't remember whether it was me directly or whether it came through someone at the office, I don't recall.

WITT: Now, after the request for the information came in, were you the one that went to get the information or did someone else?

WISEMAN: That I can't tell you either. I do know that I got... I saw the document. Whether it was pulled for me, or whether I pulled it, I can't actually say that.

WITT: Somehow the document was pulled after there was a request for information. You got that document in your hands. Did someone bring it to you and say, "Look, we've got a problem here," or did you look at it and realize you had a problem?

WISEMAN: I wish I could remember. I don't remember whether I pulled it myself or not. I know that as soon as I saw the document, I knew there was a problem.

WITT: It wasn't that somebody brought it to you and said, "We've got a problem with this one." You looked at it and said, "We've got a problem with this

one."

WISEMAN: Not that I recall.

WITT: You don't remember one way or the other?

WISEMAN: I don't.

WITT: What were you supposed to do with the document, or the information, that was brought to you? There had been a request for information. Were you supposed to relay that information to somebody, or fax it to somebody?

WISEMAN: I wasn't requested to do anything, faxing, or anything like that.

WITT: Were you supposed to call someone with the information?

WISEMAN: No, I think it was just an informational call to me about the document itself. I wasn't requested to fax any document out.

WITT: To the best of your recollection, somebody called your office, maybe you, you're not sure, and requested information from that document. Either you went to pull it, or somebody went to pull it. Do you recall what you were supposed to do? Were they holding on the phone waiting for the information, or was this later in the day? How does this work? Do you remember? (Day 3, tape #3)

WISEMAN: I don't recall speaking on the phone directly about any information. Therefore it's possible that it could have been someone in our office that pulled it.

WITT: Okay.

WISEMAN: There again, Margaret and I worked close together and may have been, I'm not, I don't know.

WITT: Okay. You've got the . . .

WISEMAN: We're a team and work together.

WITT: Okay. Did you call anybody with the information from that document? That you have a recollection?

WISEMAN: If I called anybody, it would have been Joe Carroll. Joe would have either have been in the office next to me . . .

WITT: No. I'm saying relaying the information. I'm not, whoever requested the information you don't recall whether or not they were still holding on the phone and you gave them the information they wanted or if someone else was told to give them the information? Some how you got the document and you realized there was a problem with this document.

WISEMAN: Yes, sir.

WITT: Now what did you do as soon as you realized there was a problem?

WISEMAN: I knew that I had to talk to Joe.

WITT: Okay. So he was your direct supervisor. Joe Carroll. You contacted him or he was in your office?

WISEMAN: I contacted him by either walking into his office or he may have been at the Capitol. If he was at the Capitol working legislation or watching our bills, he would check back periodically

through the day and call me about either the progress here or find out what was going on. So it could have been either way, I'm not, I don't remember whether it was a phone call or whether it was a direct contact.

WITT: Okay. What did you tell Joe about the document? What did you ask him?

WISEMAN: That the document contained no signatures and here's a document, a Declaration with no signature - what needs to be done about this? What do we have to do?

WITT: Okay. Did you know at that time whether or not Tim Moriarty had ever appeared in the Secretary of State's office to sign that document? Or to fill out the paperwork?

WISEMAN: No, sir. I was never told until an investigator gave me that information.

WITT: Okay. Did you relay any information, any background information to Joe Carroll about why the signatures weren't there? All you said, or did you say - "There's no signatures here?"

WISEMAN: There's no signatures on the document.

WITT: And what did he say at that time?

WISEMAN: Have to find out from legal counsel what to do.

WITT: Okay. Did you contact legal counsel or did he?

WISEMAN: I did not. I don't know whether Joe did, whether he went directly to Randy. Randy's legal counsel.

WITT: That's Randy Sparks.

WISEMAN: Randy Sparks. Randy worked legislation in the Capitol also at times. So I don't know whether if he went directly to Randy or not I have . . .

WITT: Did you ever talk to Randy at this time about it?

WISEMAN: No, sir.

WITT: Okay. So what happened next in regards to this document? Joe Carroll call you back or?

WISEMAN: Speaking with Joe, and I don't know whether it was a call once again or whether it was a direct contact - I believe it was probably direct contact because we walk into one another's offices real, very frequently with problems or with questions that we have so that we know what's going on election wise. He relayed the information to me.

WITT: Okay. So he, what did he tell you?

WISEMAN: That it was determined that it was a technical error and or clerical error, I'm sorry. And that to get the signature on there.

WITT: Okay. So you were told to get the signature on it?

WISEMAN: Well. It was okay to the signature.

WITT: Okay, what did you?

WISEMAN: Not, it wasn't a direct demand.

WITT: Okay. What did you do at that point? Did you contact Tim Moriarty?

WISEMAN: No, sir.

WITT: Did you have someone in your office contact Tim Moriarty?

WISEMAN: No, sir.

WITT: How were you going to go about getting the signature on it?

WISEMAN: It was my determination, well I didn't worry about Tim's signature, and for this reason - I wanted to find out who or what the problem was with the document not being signed. If someone acknowledged in the office at the Capitol that they took the Declaration and then that was my first thought. I needed to find out who and why.

WITT: Okay. Now how did you go about finding out who took the Declaration?

WISEMAN: I didn't have to. I got a call. I didn't make any calls. I got a call.

WITT: From who?

WISEMAN: It's my, I believe it was from Barbara.

WITT: Barbara who?

WISEMAN: Barbara Campbell.

WITT: Okay. So you received a call, was this five minutes later, an hour later, the next day, a week later?

WISEMAN: I'm not certain, Mr. Chairman. I know it was within a very short period of time because I didn't make any calls. I was very busy, but I wasn't busy enough to put it off for days.

WITT: Okay. So you received a call from someone. You think it might be Barbara Campbell.

WISEMAN: I believed it to be Barbara Campbell and the reason as I know that that was a question during the trial as to who it was who made the call. After I went over my, what had happened during that period of time, in my last two statements that's what I, that's who I believed and I remember the call coming from the Capitol and I'm certain the call was from Barbara.

WITT: Okay. What did that person say, possibly Barbara Campbell?

WISEMAN: I'm sure it was Barbara. That "I understand that there's a problem with Tim's filing. I don't know how we goofed that up," or something to that effect.

WITT: Okay. And . . .

WISEMAN: "I need to get it corrected."

WITT: And what did you say to them. They said they needed to get it corrected.

WISEMAN: Barbara, in my conversation with Barbara, she said, "I'll be over right away or I'll be over soon" or something like that.

WITT: So she indicated that she was going to come over and correct it?

WISEMAN: Yes.

WITT: Did she say that she had talked to anyone else about that she needed to sign it?

WISEMAN: No. She only said,

"I guess I need to get that signed" or something like that.

WITT: So you're not sure if she got the word from Joe Carroll or Randy Sparks that it was all right to go ahead and sign it?

WISEMAN: She never said so, no.

WITT: Okay. Did she then come over to your office?

WISEMAN: Yes, sir.

WITT: And what happened when she came over?

WISEMAN: No conversation to speak of, just something like - "Well I don't know how we goofed up on that one." She had taken several Declarations of Candidacy and so I felt quite comfortable with her taking those Declarations.

WITT: Okay. So

WISEMAN: She signed it, she signed the Declaration and I put it back in the file.

WITT: Okay. So you watched her signed that Declaration. And at the time that she signed it, Tim Moriarty's signature was not on it?

WISEMAN: That's correct.

WITT: Did she indicate that she was going to call Tim Moriarty? Did you indicate that you were going to, how was Tim going to get his signature or were you even worried about Tim's signature on the document?

WISEMAN: I was not worried about it. Nothing was said about it.

WITT: Okay. So it was Barbara

Campbell's signature that you were most concerned about when you looked at the document the first time and said there's no signatures on here. We need to get Barbara Campbell's signature on here.

WISEMAN: That's correct. It had to be the responsibility of someone who let the candidate themselves get away from the desk. And it happened quite frequently. I can understand.

WITT: What happened quite frequently?

WISEMAN: The candidate would walk away from the desk where the filing was being made. I saw that happen several times in the first day. Candidates who don't know or who have never been through the process before many times felt that the filling out of the hand worksheet was the Declaration of Candidacy. So they would sit down and it took some time to generate. They would pop up because of someone they saw that they knew or they'd pop up because one of the office workers would say something to them or a reporter would say something to them. Many times the candidates brought their families in or a photographer and they'd want to hurry up and get that picture. So I saw and several times I ushered candidates back to the seats myself on opening day.

WITT: Okay. So you were concerned about the candidates' signatures when you were over here in the Capitol watching them. You wanted to make sure they got signed. But yet when this one came forth you were only worried about Barbara Campbell's signature at the bottom of it.

WISEMAN: The reason being acknowledgment that the candidate was the candidate. And this candidate was there.

WITT: Did you ask Barbara Campbell anything about when Tim Moriarty appeared in the office?

WISEMAN: No, I had not. I had no reason to at that time.

WITT: Okay. When you first saw this document that was unsigned, did you look back through the rest of the documents that were with it? The candidate worksheet and look at the time/date stamp on it? And maybe the receipt that came from the, that was filled out dealing with the political party?

WISEMAN: I'm sure we made a quick review of it. We didn't, but I don't recall a review being made of everything.

WITT: Okay. It surprises me that you were so concerned about Barbara Campbell's signature when at least at this point we know that there were several other candidate filings that did not have an attestation by one of the employees of the Secretary of State's office.

WISEMAN: I didn't know that at that time, Mr. Chairman. I didn't realize that there was others that did not have an attestation on that, or a signature on that.

WITT: Okay.

WISEMAN: I've filed many people for candidacy while County Clerk and I did have to run a candidate down one time out back to the car to get him to come back in and sign. I tried to

do most of the filing myself. So I knew that there could be a problem especially with this is the Secretary's son. It could be he went back to the back room.

WITT: Okay. So you weren't worried about his signature. You wanted to make sure that Barbara Campbell attested that?

WISEMAN: We were very busy at that time and that's not an excuse for this. I wanted to make sure that one of our people actually did the filing. When that was the case, it rested my theory that or at least, it rested my mind that we did the filing, that it was an actual filing. I had no questions and nothing was ever brought to my attention that it was not or had any questionable

WITT: So you never did call Tim Moriarty and say, "We've got a problem with your Declaration"?

WISEMAN: No, sir.

WITT: And you never asked anybody else in your office to call Tim Moriarty?

WISEMAN: No, sir.

WITT: And did you ever call the Secretary of State and say, "There's a problem with your sons filing?"

WISEMAN: No, sir.

WITT: So it wasn't important to notify your boss that, I mean this could be a politically hot issue if had come out that her son had not signed the Declaration and that kind of thing. You didn't call her and tell her about that?

WISEMAN: As Director of Elections or working in any election, it's very important to be

impartial. And if there is one thing I'm not going to do, that's show favoritism toward anybody especially the boss's son, by alerting the boss of a problem like that. And I did not.

WITT: Not showing favoritism just letting her know there may be a problem so she can figure out

WISEMAN: I did that through Joe.

WITT: Okay. So you asked Joe to contact her?

WISEMAN: I just told Joe of the problem and that's the direct chain of command. I always, I go through Joe.

WITT: Okay.

WISEMAN: My chain of command is not to go above Joe.

WITT: Okay.

WISEMAN: He's my boss.

WITT: Okay. So Barbara Campbell came in sometime probably in April?

WISEMAN: Late April, early May, in that area.

WITT: Late April, early May and signed this and you knew at that time that it was blank and there was no other signatures on it?

WISEMAN: Yes, sir.

WITT: Was there any other explanation as to why, did she offer any explanation beyond - "I don't know how we goofed this up?"

WISEMAN: No, sir.

WITT: Okay. And there was no discussion that maybe Tim had come in on the 21st but it wasn't filed until the 29th?

WISEMAN: No, sir.

WITT: Okay. Did you at any time around late April, early May talk to the Secretary of State at all about her son's filing?

WISEMAN: I don't recall talking to her about her son's filing.

WITT: Okay. Did you ever talk to Joe Carroll to find out if he'd had talked to her about the problem with her son's filing?

WISEMAN: No. Not to my recollection.

WITT: So you got Barbara Campbell's signature on it and you thought that's all you needed to do. You put it back and counted it over and went on about the rest of your work?

WISEMAN: Counted it over?

WITT: Well, that was the last you, you weren't going to think about it any more. It was done. You thought that you had everything at that point you needed and you went on about your other work.

WISEMAN: I guess the busyness of the office, short handedness, there was only three of us in the office, running the full operation, Joe, myself and Margaret Freeman who actually worked with the recounts and the elections and taken a lot of the informational phone calls and that sort of thing. There was an overwhelming number of phone calls both before and after the

April election because of the 30 day period in which people have a chance to make a rebuttal or ask for a court's opinion on their race. We were answering a lot of questions like that out there in those water districts and school districts and cities, that sort of thing. So the business of the office basically is what I guess occupied my time. And I wasn't preoccupied with this only.

WITT: Did Joe Carroll or Randy Sparks, either one tell you that you didn't need Tim Moriarty's signature on it?

WISEMAN: Not to my recollection. I know that I talked with Joe a few times about at least what had occurred and word never came back down to me that I needed to go back and get anymore information or anything.

WITT: But weren't they using you for the information whether or not, didn't they say, "We need the signatures" and rely on you to get those signatures or and it, you had the documents they didn't. It seems like you would be calling them saying, "Okay we've got Barbara Campbell's signature on it, do we need Tim Moriarty's?" Or did you just assume from your own experience or knowledge or that you didn't need to have Tim Moriarty's signature on it?

WISEMAN: Combination of the two. Again, with the business at hand and with Joe away from the office, a lot with legislation, in talking with Joe in our morning meetings before he went to the Capitol or during the time he was talking back with me, there was never any indication that I should go back and get the other signature.

WITT: Okay.

WISEMAN: It wasn't relayed to me that that needed to be done.

WITT: Okay. Did Tim Moriarty come to the office to sign that document?

WISEMAN: Not to my knowledge.

WITT: So his signature never was put on that document?

WISEMAN: Yes. His signature is on the document.

WITT: Okay. When did that signature get on there?

WISEMAN: I do not know.

WITT: Were you, do you remember seeing him in the office?

WISEMAN: Not after, no.

WITT: Okay. So you aren't sure if it was Tim that put his name at the bottom of that or someone else that may have signed Tim's name to that?

WISEMAN: I didn't see him sign it.

WITT: Okay. Did any one in your office come to you and say, "Tim Moriarty was in today to sign the document" or did you ever?

WISEMAN: No.

WITT: When did you first become aware that Tim Moriarty's signature was at the bottom of that document?

WISEMAN: Sometime afterward during the time of this investigation. Not this investigation but the

investigation process.

WITT: Okay. So you never looked at the document again after you got Barbara Campbell's signature on it until maybe an investigator brought it to and it had two signatures?

WISEMAN: Would have requested, he would have requested, we still had all the documents.

WITT: Okay.

WISEMAN: The documents are in a room directly across a little hall way from Joe's and my office. So they're right there, accessible.

WITT: Okay. So they requested, you pulled it out, you look at it and then it had Tim's signature on it.

WISEMAN: That's right.

WITT: Was there any kind of post-it note or any other kind of thing on it that said when Tim came to sign it or that Tim had come to sign it?

WISEMAN: No, sir.

WITT: Who has access to that room where the documents are, besides yourself?

WISEMAN: Joe and myself and Margaret, I guess anyone on the third floor basically and . . .

WITT: So it's not kept locked?

WISEMAN: It's not kept locked. It's also got supplies in that room, writing supplies, mail out supplies, books, cards, stationary.

WITT: Okay.

WISEMAN: Inter-office mailers, just our supplies.

WITT: So anybody could have walked in there and signed Tim's name to it?

WISEMAN: Well it's right there across the hall from, directly across from Joe's and my door. And so we can see the door at all times we're in the office.

WITT: Okay. Was, let me see, do you . . .

WISEMAN: It's a records room, too.

WITT: Do you ever recall getting a call from the Secretary of State wanting that Declaration of Candidacy herself or wanting information from that Declaration of Candidacy?

WISEMAN: Myself?

WITT: Yes.

WISEMAN: I don't recall it.

WITT: Do you recall anybody in your office indicating that the Secretary of State had called and wanted some information from that?

WISEMAN: There again, it could have been Margaret and it would have been, if it would have been anybody it likely would have been her. We had Shelly Brown also works in our office. He could have taken a call, too. We now have another, we had an intern at the time but it could have been anybody.

WITT: Who was the intern at that time?

WISEMAN: Duffy Syda.

WITT: Can you spell that for

me?

WISEMAN: Duffy D-U-F-F-Y. Syda S-Y-D-A, I believe.

WITT: S-I-D-A?

WISEMAN: S-Y-D-A.

WITT: Oh, S-Y?

WISEMAN: Yes.

WITT: Okay, and that intern was from one of the universities here?

WISEMAN: MU.

WITT: Okay.

WISEMAN: Those interns weren't given responsibility to do, you know they were just to take phone calls and relay those calls on. Most often they did proofing work on the river boat with Margaret.

WITT: Okay.

WISEMAN: On some of the other working documents that come through I've mentioned her name a lot but she's been around, she does a lot of the proofing in the office.

WITT: Since you became aware that there were other Declarations of Candidacy that had not been attested by any employee of the Secretary of State's office, have you taken any action to make sure that those were attested by an employee of the Secretary of State's office?

WISEMAN: We have just looked at this supporting documentation to see whose name generally is on the ones that we've found. There's a name on the party receipt.

WITT: Receipt. Okay. So you've gone, have you gone back to see, to get those people to attest those documents?

WISEMAN: No, sir. The investigation process was under way and we have not done anything with any of the documents since the investigation process, except for pull those that were withdrawn or to add to the documents on court orders and that sort of thing.

WITT: Okay. On court orders what would be added to the documents on court order?

WISEMAN: Court orders of candidates who were allowed to withdraw, remove their name from the ballot process, for instance; the 18th Senatorial district, due to death of the incumbent candidate, the U. S. Senator candidate, due to with, request of withdrawal of name removal from ballot.

WITT: Okay.

WISEMAN: Representative

WITT: Withdrew also.

WISEMAN: From Columbia withdrew because of appointment, a few of those.

WITT: Okay. So you went back and had, you with court order you made some changes. Were there any other changes that were made to Declarations of Candidacy based on clerical errors?

WISEMAN: Not after the investigation process started. No, sir. And then none before that.

WITT: There was none. This is

the only one you made any changes to?

WISEMAN: Yes, sir.

WITT: I think that's all I've got right now. Are there further questions from committee members? Representative Wible.

WIBLE: Thank you. When you were communicating with Joe Carroll about the lack of signatures, did you indicate that both signatures were missing?

WISEMAN: Yes, yes, ma'am.

WIBLE: And when he communicated back to you that he had spoken to Randy Sparks and that it was okay to correct the clerical error, was there mention made as to which signatures, or both signatures or anything about which signature you were talking about?

WISEMAN: No. I don't recall anything, anyone statement directing toward one individual or another.

WIBLE: The request that initially caused the file to be pulled, the document to be pulled, either by you or someone else but that request caused that document to come before you when you noticed that there was no signatures. What happened to that request after you noticed that there were no signatures? The request for information.

WISEMAN: It was a phone request and I don't recall answering any information about the document at all.

WIBLE: Why would you have, if the request did not come to you, it came to someone else in your office, why would the document

be brought to you?

WISEMAN: Because I would have been the highest ranking officer in the office at the time. Joe would have been gone. It would have not have come to me if Joe had been there.

WIBLE: And the purpose that it came to you? What was the purpose of bringing it to you?

WISEMAN: To show me. To show me the document or to ask me, many times and still it's a question on whether something is public information, whether it's not public information. And, of course, almost everything is public information. But anytime someone gets a request over the phone normally that request is passed along to Joe or myself to ask if it's okay to give out, or make copies of, or what information to give to an individual.

WIBLE: So you would have been advised to as the nature of the request when you were given the document?

WISEMAN: No. All I know is that the call was a request for something about the document. But I can't recall what it was.

WIBLE: How can you advise as to whether or not it's information that can be given out if your not apprised of what information is requested?

WISEMAN: That's why I think it was probably shown to me because, rather than a request made to me. Just shown to me - here's a document.

WIBLE: Here's a document and what, what would they have said to you?

WISEMAN: We've got a problem here or something like that, you know. If it was, if it had been one of our office workers, if it had been Margaret, she naturally comes to me with anything that she sees is a problem on anything or she'll go to Joe, if Joe's there and Joe's first and then myself.

WIBLE: I'm really confused now. You said that normally it would be brought to you when there is a request for information or copying or whatever, in order so that you could advise, or Mr. Carroll if he had been there could advise whether or not it's all right to give out that information. But now you're saying that it may have been brought to you to show you that there was a problem?

WISEMAN: Well, it could, I'm talking in combination now. It was either a request for information from the document and the person pulling it saw it and gave it to me, or the person pulled it and they asked me or said - we got information request from one of the files in the candidates for Representative.

WIBLE: It wasn't just . . .

WISEMAN: I just don't remember how the document actually was brought to my attention but I remember the document.

WIBLE: And you don't remember whether you looked at it and thought - "Oh, gee, there's no signatures," - or whether someone came to you and said . . . ?

WISEMAN: No, I know that I thought that immediately.

WIBLE: So if someone brought it to you because there was a problem with what would have been the problem?

WISEMAN: I don't understand, Representative.

WIBLE: Well, I still don't understand why you've received the document. It was either because you were being asked to give advice as to whether information certain specific information could be given, out or because someone had noticed a problem and said "here's the problem."

WISEMAN: I understand, I understand. I may, I've confused that, because I brought up the possibility that that could be the case. Now that's the case on all the petitions now. I may be confusing materials from the petitions process with the Declarations. Many questions are coming up about petitions now and those are always brought in the offices to find out whether this information can be released or not because it contains so many names. I know I saw the document. I know I was surprised to see that there were no signatures on there. I don't remember whether I physically pulled the file myself or whether it was physically pulled and placed on my desk for me to look at.

WIBLE: Then your recollection after that time only is to your conversation with your conversations that ensued with Joe Carroll?

WISEMAN: It was, yes.

WIBLE: And you don't recall whether anyone followed up on whatever the initial request was?

WISEMAN: No, I didn't. I didn't. There wasn't any request from me. I think Mr. Chairman asked something concerning faxing it out or sending it out or something and I know I didn't do that. I don't even recall a request to send it out. I don't believe I got that request. I know that I was concerned and amazed when I saw that.

WIBLE: What happened to the document itself then, where did it go?

WISEMAN: Back into the file.

WIBLE: Did you put it back?

WISEMAN: Yes.

WIBLE: So do you recall whether you talked to the person who brought it to you to say anything about the information that was being requested?

WISEMAN: I know my first thought was - I have to talk to Joe. I have to find out, see what we need to do, who we need to talk to. Joe's the one who took a request to legal counsel as far as any request being made.

WIBLE: So as far as your concerned whatever the initial request concerning the document was, it was just dropped at that point, it was never followed up on?

WISEMAN: As far as I know.

WIBLE: And when you were getting the signature of Barbara Campbell, did you have any concern at all about the fact that she was attesting to a signature that wasn't there?

WISEMAN: I did not at that time. I should have. I will admit now. But my concern was

and she acknowledged that she took the Declaration, so my theory was, at that point in time, I was never told there was any problems with dates or times or anything of that nature. So . . .

WIBLE: When you say that she attested that she took the signature, are you talking about verbally or by signing the document?

WISEMAN: She signed the document stating that she took the Declarations and the attestation over that says that she's attesting to the signature.

WIBLE: Did you talk to her at all about whether she actually did that?

WISEMAN: She told me that she didn't know how she'd goofed up on that. I took that as meaning that it was just, it was a problem that he just got up and walked away or there was some reason why his signature didn't make it on there and neither one did in the hub bub of the office. I was not there so I didn't . . .

WIBLE: That was all assumptions. You didn't ask those questions?

WISEMAN: I did not ask.

WIBLE: And you . . .

WISEMAN: It was a hurried meeting.

WIBLE: You weren't curious at all about . . . ?

WISEMAN: Excuse me.

WIBLE: You were not curious at all about how this might have happened?

WISEMAN: I was not curious, not knowing the chain of events that I've since learned.

WIBLE: Did you think it was reasonable to assume that a document that had no signatures was purely a clerical error, without asking any questions as to what happened?

WISEMAN: We rely upon the advice of legal counsel very often and as it was passed on to me, yes, I did.

WIBLE: You passed information to legal counsel, as I understand it. Now the information that you passed on the legal counsel was it that someone came in and just didn't sign the document or was it that we have a document here that has no signatures and I have no idea what happened surrounding the document. I have no idea whether anyone ever came in or what information did you pass on that legal counsel could make that determination from?

WISEMAN: My information on the blank document your talking of, your speaking of. The information that I passed on to Joe was just simply that there was no signatures on the Declaration of Candidacy itself.

WIBLE: No one asked whether someone had been in to sign and just didn't sign? No one asked any questions about the surrounding events?

WISEMAN: I did not.

WIBLE: You did not. Do you know of anyone else who did?

WISEMAN: I do not know. I do not know if they did.

WITT: Representative Gaw.

GAW: Thank you, Mr. Chair. Gene, in this time frame when you first learned of the fact that there were no signatures on this Declaration form, do you recall the date?

WISEMAN: No, sir I do not. Not an exact date. I just . . .

GAW: But it was in the latter part of April or early part of May?

WISEMAN: Yes, sir.

GAW: Is that correct?

WISEMAN: Yes, sir.

GAW: And you don't know, how many people were working in your office at that time?

WISEMAN: There was, there would just be four of us.

GAW: And who are they?

WISEMAN: Joe and myself, Margaret and Shelly.

GAW: And you know it wasn't Joe that brought it to you?

WISEMAN: Yes.

GAW: And you know, so if somebody brought it to you it had to either be Margaret or Shelly. Is that correct?

WISEMAN: Likely, yes.

GAW: But you don't recall which one?

WISEMAN: If anyone brought it to me, it would likely have been Margaret. She just knows the run of the office. And that's the only reason she, that I would say that.

GAW: All right. And you don't

know the reason why the document was brought to you?

WISEMAN: Other than, no.

GAW: And . . .

WISEMAN: There was a phone call made about it.

GAW: And you don't . . .

WISEMAN: Or for it or something to that effect.

GAW: To you?

WISEMAN: Representative, I don't remember. I don't believe the call came directly to me, but I can't say that for sure either.

GAW: All right. And do you know who it was from?

WISEMAN: Most often, excuse me but to follow up, most often the calls are taken by the front desk so we either get the calls secondary or we take the overflow of calls. No, I do not remember.

GAW: It could have come to you?

WISEMAN: It's a possibility.

GAW: But you don't . . .

WISEMAN: Not likely but it's a possibility.

GAW: Do you know who the call was from?

WISEMAN: No, sir.

GAW: Is it possible it was from the Secretary of State?

WISEMAN: That's possible. That's possible it could have been.

GAW: Is it also possible that the request was to fax some document from Tim's file?

WISEMAN: That's possible.

GAW: You don't recall which one it was that brought it to you, but you think it was Margaret?

WISEMAN: No, I don't think it was Margaret. If it would have been anyone it would have likely have been Margaret. I guess I think it was Margaret.

GAW: All right.

WISEMAN: I'm sorry.

GAW: That's all right I, and after you got the document was the worksheet with it? Was the entire file in there?

WISEMAN: The entire file is with, I mean the worksheets are attached to, they're stapled together.

GAW: All right.

WISEMAN: Worksheets, the Declarations, the Declarations first, worksheet second, and the receipt from the party third.

GAW: All right.

WISEMAN: Along with any other paperwork.

GAW: Okay. So all of that would have been in this package that was in front of you on that day?

WISEMAN: Yes, sir.

GAW: Is there anything in the, on the Declaration form that's not on the worksheet? Any information there that's not on the worksheet?

WISEMAN: With the exception of two signatures, the time that's printed I guess is not, the computer generated time is the only thing. But then it's most often consistent with the worksheet it's . . .

GAW: So the only thing . . .

WISEMAN: It's irregular on the "XM" I guess.

GAW: So the only thing that's really not there would be the signatures?

WISEMAN: Yes, sir.

GAW: Now with regard to, you have made other statements in regard to how you became aware or someone notifying you about Barbara Campbell signing this Declaration form. Is that correct? Made statements to the AG's office, to investigators. You've made several statements on two individuals on that incident. Is that correct?

WISEMAN: Yes, sir.

GAW: Is it true, Gene, that you have told the AG's office or their investigator that Judi may, in other words the Secretary of State, may have called and said that Barbara Campbell would be coming over to sign that document?

WISEMAN: That was, yes, sir.

GAW: Okay.

WISEMAN: It was an early question.

GAW: Now, Gene, you said you weren't concerned about Tim's signature.

WISEMAN: No, sir.

GAW: The Declaration of Candidate nomination that . . .

WISEMAN: I wasn't concerned after I found who was responsible for taking the Declaration. Representative, that was my, I guess, main thought was, once we found out that our office, you know, who did it. And that they acknowledged that they took the Declaration.

GAW: You made the assumption, did you not at that point, Gene, that this was just somebody getting up and someone failing to bring them back to sit down and sign the document?

WISEMAN: Yes, I did.

GAW: If that set of facts was not true would that have changed your opinion in regard to how this should have been handled?

WISEMAN: Yes, sir.

GAW: And if in fact that individual had had their paperwork held, would your opinion of how this should have been handled have changed?

WISEMAN: Yes, sir.

GAW: In what way?

WISEMAN: We're not in the business of holding paperwork. The candidate is to appear in person to file and at that time the candidate is a filed candidate. It's the way that we've always conducted the business. That's the way I've always conducted the business of candidate filing.

GAW: All right.

WISEMAN: Paperwork is not

held.

GAW: So this assumption that you made about how this occurred was that based on anything other than your own belief? Was there any information that you had to believe that what had occurred was that Tim Moriarty had set down with or had been there to file in person and then he'd just had failed to sign it on that date?

WISEMAN: I'd never heard anything near to that. That had never come up in conversation until the investigation started.

GAW: All right. So did you have any information as to what had occurred at the time that Tim Moriarty was allegedly to have filed on the 21st?

WISEMAN: No, sir.

GAW: Do you have any information on what had occurred that day?

WISEMAN: No, sir.

GAW: Or on the 29th, what had occurred on the 29th. When this signature of Barbara Campbell's was obtained?

WISEMAN: No, sir.

GAW: Okay. Now your office, you say, sits right across from where this room is, where these records are kept. Is this correct?

WISEMAN: Yes, sir.

GAW: Of course, I assume you're not always in your office.

WISEMAN: No, sir.

GAW: But you were not present when that, when Tim Moriarty's signature was obtained?

WISEMAN: No, sir.

GAW: Have you talked to those that work under you in your office about how that signature came to be on that document?

WISEMAN: No one in our office saw the signature, you know. No one saw that happen.

GAW: No one in your office that works under you?

WISEMAN: No, sir.

GAW: And that includes those individuals that you mentioned earlier?

WISEMAN: Yes, sir.

GAW: You've talked with them?

WISEMAN: Yes, sir. We talk on a daily basis. We're in a very small office.

GAW: I understand, Gene.

WISEMAN: It's not a situation where the direct requests are made daily, did you see that, did you see this? But any information, you know, would come up in conversation and never did anyone say that they saw it.

GAW: Is it common business in the Secretary of State's office in your division for others outside of your supervision or Joe Carroll, who is not I suppose in your supervision, to make any entries in these files after they're in your possession on these Declaration of Candidacy forms?

WISEMAN: Not in the files themselves. That room is entered many times by many people but not in the files themselves. The files were in two cardboard boxes. One

marked Democrat, one marked Dem., one marked Representative then they were from front to back U. S. Senator to Circuit Judge in each one of those with the Libertarians also in one on those boxes. They were sitting on top of a large record, storage container.

GAW: Is there anyone then outside of your division that would have normally gone in to make changes or corrections or whatever on these documents of Declarations of Candidacy?

WISEMAN: No, sir.

GAW: So if in fact Tim Moriarty's signature, which we know it did appear on one of those documents and if it didn't occur with your supervision or someone under your supervision or Joe Carroll, shouldn't have got there should it?

WISEMAN: That's correct.

GAW: And if you, have you talked to those individuals in your office that are under your supervision about if any of them made a phone call to Tim Moriarty to have him come in and sign that Declaration of Candidacy form?

WISEMAN: No, I have not.

GAW: You haven't talked to them about that?

WISEMAN: I have not asked them that question. No, sir.

GAW: Okay. Are you aware of any of them making that phone call?

WISEMAN: No, sir.

GAW: And you did not make that phone call?

WISEMAN: No, sir.

GAW: I think that's all I have.

WITT: Further questions?

SHELTON: I have a question.

WITT: Representative Shelton.

SHELTON: I'll probably ask you some of the same questions. But when did you see the Declaration for the first time? That was unsigned?

WISEMAN: It was in late April, Representative, sometime in late April, I believe. Late April, early May.

SHELTON: What caused you to look at it, pull it out?

WISEMAN: It was, once again because of an informational request of some sort.

SHELTON: From who?

WISEMAN: I'm not certain who that request was from.

SHELTON: And what was the request?

WISEMAN: There again, I'm not certain what they wanted and I'm, I don't know, it was just something to do with Tim's filing or a Representative from the 56th, Tim Moriarty's filing that the request was made about. And I don't know what the request was for.

SHELTON: And somehow Barbara Campbell ended up at your office sometime later to sign the document?

WISEMAN: Yes. Phone call was made and I'm certain it, Barbara called and asked or said that she understood there was a

problem with the Declaration.

SHELTON: Barbara called you?

WISEMAN: I'm certain that's the way it happened. Yes, sir.

SHELTON: And say what? What did she say?

WISEMAN: That I understand there is a problem with a filing, that I need (End of tape #3) and get that corrected. Or something like that.

SHELTON: When she came over, did she tell you at whose direction she was coming over?

WISEMAN: No, sir.

SHELTON: Did you later find out who ordered her to come over?

WISEMAN: No, sir.

SHELTON: There were two signatures needed, so Barbara came over to sign. When did Tim sign?

WISEMAN: I don't know.

SHELTON: You didn't call Tim?

WISEMAN: No, sir.

SHELTON: Did the Secretary of State call you about this?

WISEMAN: Not to my recollection.

SHELTON: You said that there were some other documents that had the XM on it?

WISEMAN: Yes, sir.

SHELTON: Approximately, how many?

WISEMAN: I'm not certain.

There were several.

SHELTON: And how would those XM's end up on this declaration?

WISEMAN: It would end up, if the person who filed, filed during the noon hour period. For some reason, we couldn't get the computer to . . .

SHELTON: So give me the specific time. Noon to what?

WISEMAN: Twelve-oh-one to one o'clock p.m. The computer would not print that time in, for some reason, on the actual Declaration itself.

SHELTON: When they were doing this computer training, were you involved in that training?

WISEMAN: Yes, sir.

SHELTON: So, how would a document show up with an XM at one-nineteen?

WISEMAN: At one-nineteen?

SHELTON: Yes.

WISEMAN: I may be wrong on my time period. It may have twelve-thirty to one-thirty. Hal would be . . . I thought it was twelve to one, but it may be twelve to one-thirty. There's an hour's time in there.

SHELTON: I think he said, on several occasions, from noon to one.

WISEMAN: I think that's what it was, twelve to one. It may have been that I may be off a little bit, but I don't think so.

SHELTON: How long have you known Judi?

WISEMAN: I've known her ten or twelve years, twelve years, I guess. We were elected County Clerk in 1982, and I was, too.

SHELTON: So when did you come on board here?

WISEMAN: 1983. April of 1983.

SHELTON: Were you recruited, or did you apply for the job?

WISEMAN: I guess I applied, with a little bit of recruiting, but not much. I applied. I came to the Capitol office and talked about the job with Judy.

SHELTON: You remember the time when Barbara Campbell came over? Do you recall the conversation you had with her?

WISEMAN: Very short. Very small conversation. Hardly, very little conversation.

SHELTON: Do you recall making the statement that "This is an internal document. They don't mean anything. No one is ever going to see them?"

WISEMAN: No, sir.

SHELTON: So, do you recall the statement that you made that when the call came in about this declaration, that you said, "The call came to me."

WISEMAN: Yes, sir.

SHELTON: Who was that call from?

WISEMAN: There again, I don't know. The call, I'm certain the call was either to me, or through the staff to me. It ultimately got to me. That's what I meant by making that statement. The call ultimately came to me, either

through one of the staff, or directly to me. But I'm not sure whether I took the call directly, or not.

SHELTON: You get a call from the main office, who is your boss, concerning her son's declaration, and you don't recall who it was?

WISEMAN: I don't recall getting that call. No, sir. I didn't get that call, if that's what you're asking.

SHELTON: But in your testimony, you didn't say that the call came from someone else. You said "the call was made to me."

WISEMAN: It ultimately came to me, sir. It was either to me directly, or through the staff to me. I've talked about this call upon several occasions. I just don't remember that much about any call. I don't remember it being an excitable call. Anything that, you know, it didn't stick with me if, so therefore I don't think it was a call directly to me. It could have been to me through the staff or something. I just don't know.

SHELTON: I just can't imagine, you know, in your role that you would get a call from the Secretary of State's office about her son and you wouldn't know who that call came from. It just, it's just amazing.

WISEMAN: For that reason I don't believe I got that call directly. I do not remember talking to Judi about . . .

SHELTON: Whether it was directly or indirectly, I think that one would know that someone from the Secretary of State called about her son. And that's your boss.

WISEMAN: I agree.

SHELTON: I mean you should have been jumping through hoops trying to find out who called and what the problem was. You know, you don't seem to be showing very much support, to me, for the Secretary of State. You know, several people that asked you questions you were confused about who called, when they called, you're uncertain as it relates to this particular filing. It doesn't seem to me that you're being very helpful.

WISEMAN: I just don't recall, sir.

SHELTON: If, we had heard testimony earlier I guess from Tim Moriarty himself that someone called and left a message on his voice mail from the Election Division asking him to come down and sign his name on the Declaration. There is only four people in that office right?

WISEMAN: Right.

SHELTON: You didn't make the call?

WISEMAN: No, sir.

SHELTON: Joe Carroll said he didn't make the call. Why would the other two people make the call and your director and he's your supervisor?

WISEMAN: I don't know, sir. I don't believe they would have.

SHELTON: So you believe Tim is lying?

WISEMAN: I don't know, sir. I did not make the call.

SHELTON: Someone had to call

him and tell him to come down and sign his signature. He said it was somebody from the Election Division.

WISEMAN: It was not me.

SHELTON: You got the call from, to have Barbara Campbell have her signature on it.

WISEMAN: Yes, sir.

SHELTON: Why wouldn't they call you to have Tim? Okay. Thanks.

WITT: Representative Richardson.

RICHARDSON: Mr. Wiseman when you first came on board with the Secretary of States office were you familiar with the specific filing process that Secretary of State's office went through for elections?

WISEMAN: When I first came on?

RICHARDSON: Yes.

WISEMAN: No, sir. We went through that afterwards.

RICHARDSON: How did you learn how that system was set up? Who taught you?

WISEMAN: Gained a lot of my information from Margaret. Again, she's been through several of those filing procedures, talked with how as to how they accomplished it before through the computerization. How my ideas related to how they had done it in the past. And how I thought maybe could incorporate some of those ideas into this one.

RICHARDSON: Was this system that you used for the

1994 filing period different than the one that had been used in 92 or 90 or previous years?

WISEMAN: Yes, it was.

RICHARDSON: In what way was it different?

WISEMAN: We did not enter, we did not wish, Joe nor I either one, wish that any filing be done prior to the individual walking in to the desk. In other words, we had understood that through the line process before, the information was taken from the individuals in the lines, was handed to the people in the office and then was placed into the computer so that, and I'm talking about opening day, so that that information would be ready. It was a quicker process going through the office. Joe and I, through talking, and Joe's main statement was - we don't care how fast we are - we want to make sure that those things are done smoothly and that we get to see each candidate at opening day - we want them to give that information to that person - that way you know that that person is there and it's not someone else walking through the door handing you the sheet because it's already in the computer.

RICHARDSON: Apart from that procedural difference that was really the first day.

WISEMAN: Excuse me. It was new for us and that's the reason why we wanted to work through it ourselves, too, to see how the process works. So being new to it ourselves, we wanted to familiarize ourselves with it.

RICHARDSON: But apart from that glitch there on the first day, it was an identical process? A

person came in with a receipt or with money?

WISEMAN: Yes.

RICHARDSON: Filled out the worksheet?

WISEMAN: Yes.

RICHARDSON: That information or that worksheet was taken across the room to the clock stamp. It was stamped. It was brought back over. It was then put into the computer. And the Declaration was generated?

WISEMAN: Yes.

RICHARDSON: The candidate signed it. And that completed the process. And that was identical to the system that had been used in 92 or prior years?

WISEMAN: I think so. That was, it was similar to that process. Yes sir.

RICHARDSON: And it was through Hal and Margaret that you really learned how it worked?

WISEMAN: Yes.

RICHARDSON: You and Joe were both learning how it worked.

WISEMAN: We were both new.

RICHARDSON: And then you came over in January and actually trained the three women that were in the Capitol.

WISEMAN: That's correct.

RICHARDSON: Was Judi Moriarty there for the training?

WISEMAN: No, sir.

RICHARDSON: Did, do you ever teach her how that system worked?

WISEMAN: No, sir.

RICHARDSON: Do you know whether or not she even knew how it worked?

WISEMAN: No, I did not.

RICHARDSON: Would it be surprising to you if she didn't understand or know the specific details or the mechanics of it?

WISEMAN: Probably not.

RICHARDSON: Would there be any real reason for her to know that?

WISEMAN: No.

RICHARDSON: Now I'm concerned and I spoke to the Chairman just a few moments ago. We had requested an opportunity to look at all of the other filings for this election cycle. And he tells me that that's going to be made available to us. But I'm concerned that there may be some other questions that arise with regard to some of these other filings. You're saying that there was a glitch that was never worked out in the system where it would not print a time if it was during the noon hour.

WISEMAN: During that noon hour process. Yes, sir.

RICHARDSON: What if it was after a certain time in the afternoon or before a certain time in the morning?

WISEMAN: Not to my knowledge.

RICHARDSON: I mean why

would that happen unless it was programmed in to lock out except for specific problems. In other word would that be some sort of red flag that you're outside the time for filing or something?

WISEMAN: No. Hal said, Hal had to make the program up new this time and the reason he had to was that it was to run on the system at the Capitol office. Which is a different system then we use at the Missouri State Information Center. It's a different type of network system. So he was concerned when he had to write the program, to put the program together and that was one of the problems he had was during there. We never ever tested, nor did we find a need to test for it, never gave a thought of testing for 5:30 p.m. for instance. For what you said.

RICHARDSON: You're aware that Tim produced a copy of what he claimed to be a Declaration that he was given that afternoon that he filed on the 21st?

WISEMAN: I was made aware of that, yes.

RICHARDSON: And you were aware that it had an XM on it?

WISEMAN: Yes, I was made aware of it.

RICHARDSON: Have you or Hal or anybody gone back and tried to reconstruct whether or not one that was put in after 5:30, 5:00 p.m. or after 4:30 p.m. or what time the office closed might generate that same type of document?

WISEMAN: I don't know whether Hal has or not. I have not.

RICHARDSON: You have not.

WISEMAN: I could not find, well it's not available on my system. I have the program there but I can't get into it.

RICHARDSON: You're saying that you since all of this had come up, I mean you know, we're talking about investigators coming and taking sworn statements and Grand Jurys and four million newspaper articles across the state that affects you personally and it's been going on for four or five months, and you've never gone back really and done a personal check of the other filings of 500 some odd filings to see how many of them might have a problem?

WISEMAN: No, sir. Those originals have been in the Prosecutor's office for a period of time. We did do the copying process. We've been involved in the whole petition, the initial petition process and I have not taken the time to go back and go through those.

RICHARDSON: Okay. You saying all 500 and some odd Declarations, worksheets, and receipts all of those have been in the Prosecutor's office?

WISEMAN: They were.

RICHARDSON: They were all sequestered when this first started?

WISEMAN: They were.

RICHARDSON: Where are they now?

WISEMAN: They are, part of those are here. They wasn't when they first started. It was for the trial. Part of those are

here,

RICHARDSON: Where are the rest of them?

WISEMAN: They're back in the Information Center in the record, in that room.

RICHARDSON: Why are some of them here and some of them not here?

WISEMAN: I think that the request that was made was for the State Representatives and for Congressional Candidates or some other, was it just State Representatives? Okay.

RICHARDSON: Oh.

WISEMAN: I knew it was either for just State Representatives or maybe one other race. But the rest of those races were not requested so Brett when he ordered us or had us re-box those this morning we just . . .

RICHARDSON: But at any rate none of them have been changed or altered in anyway since this is all started?

WISEMAN: Since the proceedings began, Joe and I had talked briefly about that and together decided that it would be best we not do anything because of the request from the prosecutor, request from the other investigators' offices. So we have not gone through there and done anything other than pulling for, not withdrawals, but court ordered withdrawals or new filings or that sort of thing.

RICHARDSON: This type of a discrepancy came up now in light of all of this how would you handle it?

WISEMAN: Much differently. First of all

RICHARDSON: How would you handle it?

WISEMAN: A much more detailed process. I guess our interim counsel that we have now also comes more frequently into my office and requests information from me, so it's a different type of process we're going through now. And he collectively talks with both of us. He calls Joe and I in a room together. So we talk with the counsel much more frequently now on a direct basis idea with Joe present. Who would also ask many more questions.

RICHARDSON: And throughout this entire process you are absolutely certain that you never spoke directly to Judi Moriarty about it?

WISEMAN: Throughout the entire process?

RICHARDSON: With regard to Tim's situation?

WISEMAN: We've talked about Tim's situation after the investigation started. Yes, sir.

RICHARDSON: Okay. She never requested or directed you to secure signatures herself?

WISEMAN: Not herself. No, sir.

RICHARDSON: You never spoke with her prospectively about this situation at any time?

WISEMAN: No, sir.

RICHARDSON: To your knowledge, she didn't have any information or any knowledge at all that Tim's signature wasn't

on there?

WISEMAN: Up to late April date?

RICHARDSON: Yes.

WISEMAN: You're asking?

RICHARDSON: Right.

WISEMAN: No.

RICHARDSON: Okay. Now just a couple other questions. The process took place here in the Capitol and then on a daily or nightly basis they were trans, all the original documents were transferred over there?

WISEMAN: That's correct.

RICHARDSON: And then you or Margaret or Shelly or Joe would have been responsible for auditing those records or reviewing those records. And you would do that as quickly as possible after they came in. The next morning perhaps? Or the next day?

WISEMAN: It was delayed several times for two to three days because of the election process that we were . . .

RICHARDSON: But never more than two or three days?

WISEMAN: Two or three days. I remember Margaret getting on me several times about the need for, to go through it so I know there was a delay at times. You know at times it was just a mass of phone calls coming in.

RICHARDSON: But at some point following March 29th and within a matter of a day or two or three all of the records have been reviewed, been audited, double checked to make sure

they were correct? How is it that this Declaration slipped through without any signatures on it at all?

WISEMAN: I don't know.

RICHARDSON: And how is that several, maybe in the teens I think you said, other Declarations slipped through without any verification signatures?

WISEMAN: I didn't normally, very seldom, handle those Declarations myself. I don't know. It was not under the watchful eye. You know, that wasn't the thing that was checked for most. Dates, times, and names of the individuals on the ballots was, or on the printout was the, under closest scrutiny at that point and time.

RICHARDSON: Barbara Campbell never told you or told anybody in your presence that she'd been instructed or ordered to sign the document?

WISEMAN: No, sir.

RICHARDSON: In fact her statement was that she had screwed up and she needed to come over and sign it?

WISEMAN: "I guess I need to get this done" or "I was supposed to get this done" or something like that. It wasn't, "I was told to do this."

RICHARDSON: Who has keys to your office that would allow them to access this room where the records were kept?

WISEMAN: The room wasn't always locked. In fact . . .

RICHARDSON: It's part of the suite that you're, in right?

WISEMAN: Right.

RICHARDSON: And your suite is secured, I'd assume?

WISEMAN: The whole third floor is accessible I say the third floor, the back third floor. On our floor is Elections, Human Resources, Budget, Computers on back to the back to the administration the Chief Counsel and Dr. Campbell's office was back there also human Resources or Deputy Secretary.

RICHARDSON: So you enter that entire suite through the same front door?

WISEMAN: It's an L shaped area. A very large area. It goes, spans the, is next to the river.

RICHARDSON: Yes.

WISEMAN: And then the end facing Millbottom. Close to that end, up to a point where UCC takes over.

RICHARDSON: It's a type of area where you would routinely greet and deal with the citizenry, people come and go from there other than people at work?

WISEMAN: Yes, sir.

RICHARDSON: So the public . . .

WISEMAN: The public is customary.

RICHARDSON: Would commonly, would come in.

WISEMAN: Yes.

RICHARDSON: Is there a central area where they would be met or greeted when they came into that suite?

WISEMAN: Barbara's desk is in the front, right by the door. She's usually the first one they'd go past.

RICHARDSON: Okay.

WISEMAN: There is an area down on floor one, central desk were there is a dispatcher or a person who mans the phones for the whole building. You'd walk past that desk first, but there is not a mandatory check in.

RICHARDSON: Is it possible that someone from one of those other divisions or might field questions about Elections?

WISEMAN: It's possible. Field questions, what do you mean?

RICHARDSON: Well, I'm trying to figure out how Tim Moriarty got into the office and signed it without any of the four of you in your division knowing about it. I'm having a hard time understanding how that could happen. Unless maybe Duffy Syda or . . .

WISEMAN: It's, the building is very, well, accessible. It's an open style building. It's locked up on weekends.

RICHARDSON: Would anybody else other than the four of you and possibly this intern know where to even look for those documents?

WISEMAN: I doubt if the intern knew where to look.

RICHARDSON: Would Judi Moriarty know where they were?

WISEMAN: It's the only place we have on our area for storage as far as storage goes other than Margaret's three file, three drawer filing cabinet. We're

very small but it wouldn't be all that hard to tell what's in the boxes, marked the way they were. But you know

RICHARDSON: When you were County Clerk, where did you keep yours?

WISEMAN: Mine were kept in tills. We were in an old style Court House and those tills were small, upright, you've seen them in

RICHARDSON: Were they kept in a vault or?

WISEMAN: My office was in the vault area.

RICHARDSON: Do you have a vault area or a secure area over there in the Information Center?

WISEMAN: We do down, I believe we probably do down on the first floor or somewhere. I'm not certain. They've got a record center and I'm not certain whether they have vault areas down there or not.

RICHARDSON: Okay. Do you agree that these are pretty important documents?

WISEMAN: Yes, sir.

RICHARDSON: It's not in a fire proof area, it's not in a secure area, they're not locked up at night?

WISEMAN: They're locked up most often. There is a chance that, you know there are times when that room is not locked. In fact it's not locked now.

RICHARDSON: I guess even a custodian could get in.

WISEMAN: Yes, sir. We don't have a vault area in our area.

RICHARDSON: I have no further questions.

WITT: Chain of command is real important in your office. Is that correct? Everybody goes through the chain of command?

WISEMAN: It is with our office.

WITT: Okay.

WISEMAN: Joe Carroll demands respect I guess as a boss and receives that.

WITT: And Margaret Freeman knows that?

WISEMAN: Yes, sir.

WITT: Okay. And if there were any kind of document that was necessary to be held or finished later or it had been filed stamped and yet not all of the signatures were on it or there was other information that was required, she would have told you about that rather than just going on and doing it herself. Is that correct?

WISEMAN: Oh, yeah. Well, I would, one would think so.

WITT: Okay.

WISEMAN: She's been around procedures in the office many more than I have even come against yet.

WITT: Okay. The phone call you received in April. You said you weren't sure where that came from, whether it came through the staff or came directly to you. You are sure that it came from the main office here in the Capitol building. Is that correct?

WISEMAN: Yes.

WITT: Okay. That's all I have. We may need to recall you. Are you going to be in your office the rest of today and tomorrow over here? So if we do need to call you and bring you back to ask you some additional questions after we've reviewed the, some other documents, will you be available for that?

WISEMAN: I should be available. Yes, sir.

WITT: Okay.

SHELTON: I've got a question.

WITT: Okay. I'm sorry. Representative Shelton.

SHELTON: In your Grand Jury testimony you were asked, I guess as you looked at the documents, they asked you was the date on this document at that time. And your answer was - "My answer would be, yes, for this reason; if the date were not there it would create a void between two signatures" - Could you explain that?

WISEMAN: Yes, sir. Representative, the date is a highlighted. Hal made it, the date, a larger type and a bold type.

SHELTON: I'm listening.

WISEMAN: And it would have been, it was right down there in that area between the signatures, around the signature, so it would have been available.

SHELTON: What's the void?

WISEMAN: Well, if that had not been there, such as the 29th, you know it would have been an open space.

SHELTON: Okay. Between the two signatures?

WISEMAN: No, I mean in the sentence itself. There would have been an open space where that date should have gone.

SHELTON: Okay. Like right here?

WISEMAN: Yes. It would have been an open space. I assume between whatever the wording is just prior to March 29th or the 29th day of March, or however it's stated. As I remember, it's a sentence.

SHELTON: If they came in after the 29th to sign on the Declaration, how could this date get in here?

WISEMAN: The date was already on it.

SHELTON: The date was already on it?

WISEMAN: The date is generated at the time the document comes through the computer. In other words . . .

SHELTON: Okay. Thanks.

WITT: Representative Gaw.

GAW: I'd like to follow up on what Representative Shelton was referring to. You are referring to the Declaration of Candidate for Nomination form. Is that correct, Gene?

WISEMAN: Yeah.

GAW: You're sure. This is not the, that's the XM document, but it's the same form?

WISEMAN: Yes.

GAW: That's the one your

referring to?

WISEMAN: That's what I'm referring to.

GAW: When you say it would have been, he printed it in large print so it would be obvious.

WISEMAN: So there's print there. Dark print.

GAW: Yeah. So it would be obvious the date or if the date was missing it would be obvious. Is that correct?

WISEMAN: That's what I thought at that time. Yes, sir.

GAW: That is right between the two signature lines on the Declaration of Candidate for Nomination form?

WISEMAN: That's where it's located on there.

GAW: Well, I've got to ask this question then. If this is designed to be so obvious to you all checking it, how could it not be obvious that those two signatures were missing?

WISEMAN: I can't answer that, Representative. I think it would have been had I handled the document. I'm not saying that for sure, I'm not going to second guess that, but I remember when Hal set the program up he darkened that space so that we could easily find that date if that should become a question on positioning on the ballot. And that's the main reason for, of course, the date and time is the positioning on the ballot, as you well know, there was a jockeying there although it's mostly during the first day and the last day. It is of utmost importance that we keep that person in line with where they should have been in

relation to the other individuals that filed for that particular office.

GAW: And when you were, you and Margaret, I believe, would check these candidate files you would check in addition to other things this Declaration form?

WISEMAN: That was, we checked that name

GAW: Not this one in particular, but a Declaration form.

WISEMAN: the gray area?

GAW: Yes.

WISEMAN: The gray area is what we looked at there.

GAW: You would look at that?

WISEMAN: The gray area.

GAW: To check it?

WISEMAN: Yes, sir. That was the name as it was to appear on the ballot.

GAW: And that's the same page that those signatures were missing on that document? Is that true?

WISEMAN: That's true.

GAW: That's all I have Mr. Chair.

SHELTON: I got one quick one. Mr. Chairman, I've one quick one. Could you tell me who Leigh Toalson is?

WISEMAN: Leigh Ann Toalson.

SHELTON: Leigh Ann Toalson.

WISEMAN: She is the Administrative Secretary. She's in the back of the building. She

the Administrative Secretary to Executive Deputy.

SHELTON: Why would Mr. Campbell, Dr. Campbell be interested in her?

WISEMAN: I do not know.

SHELTON: Wait a minute.

WISEMAN: Excuse me?

SHELTON: I said wait a minute.

WISEMAN: You mean why he asked the question?

SHELTON: Okay, let me go back. You were talking to Mr. Callahan and he asked you, "Who was Charles Campbell interested in?" "Who were the people he was interested in?" You had mentioned Jim Kolb.

WISEMAN: Yes, sir.

SHELTON: Then you mentioned Leigh Ann.

WISEMAN: Yes, sir.

SHELTON: So if you mentioned Leigh Ann, you must have known that Mr. Campbell had some interest.

WISEMAN: His question was concerning was there any outside relationship between the two people?

SHELTON: That's what Rich was asking you?

WISEMAN: Mr. Lee.

SHELTON: Okay. Mr. Lee.

WISEMAN: Or Mr. Callahan, one of the two. I'm not sure certain who it was. It was the Prosecutor's office that asked. I

think it was Mr. Lee. It was purely a personal question, as far as I was concerned. I did not

SHELTON: Why was he interested in Jim Kolb?

WISEMAN: It was a power struggle, I believe. His interest was why the Executive Secretary administrated the way that he did, conduct with the Deputies and with the employees, and how his style of management was different from that of Mr. Kolb's.

SHELTON: Did he ask other people in the office about these individuals?

WISEMAN: About those two?

SHELTON: Yes. To your knowledge.

WISEMAN: Not to my knowledge. I didn't answer the question.

SHELTON: How would he ask you?

WISEMAN: This was on a Saturday morning we were preparing for a, the communication of the numbers for the River Boat Gambling issue. It was on a Saturday morning, I believe, just before the election on Tuesday. We assembled about a dozen people. One of which was Barbara. To answer phone calls on election night. This is a completely, this is a separate service from Secretary of State, yet they work through communication there relaying those vote numbers out to the State through the United, or through the Cooperative Press Service, I'm not certain what that is but

SHELTON: Okay. Just relate to me what did he say to you that particular morning about these two individuals.

WISEMAN: His reasoning was, he was asking me about the particular make-up of the schematic power of the office. In other words, the Secretary of State, the

SHELTON: The organizational chart?

WISEMAN: The organizational chart, I'm, thank you.

SHELTON: Okay.

WISEMAN: Asking me about that, what I thought of that, what I thought of the way the organization was running? It ran into that question. That's when I became upset that we'd get into personal lives of individuals.

SHELTON: I'm just curious all the people in the chart he would just ask you two because, he followed up and said anybody else and you said - no - you just picked up these two Leigh Ann and Kolb. I'm still not sure what he asked you.

WISEMAN: He was just asking if there was any sort of relationship between the two. And I don't know.

SHELTON: Oh, between Leigh Ann and

WISEMAN: Yes, sir.

SHELTON: All right. Thank you.

WISEMAN: As far as I was concerned it was a personal question and I didn't know anything and didn't really care

what happens before eight or after five.

SHELTON: Okay. All right. Thank you. Thank you, Mr. Chairman.

WITT: Any further questions? Thank you very much. If you would be available so that we can recall you if we do need to. The staff has put together from what the, you can go ahead if you need to.

WISEMAN: Thank you.

WITT: The staff has put together from what they have gone through so far, I don't think this is all of them, Declarations of Candidacy that have no attestation by an officer of the Secretary of State's office and I've got copies of these for each one them, each one of you on the committee. I'll let you take a look at these over the lunch hour and we will recess until 1:15 and I'd like to have, to try and have everybody back by 1:15 so we can start up again. We're recessed. (End of tape #4)

• RECESS •

WITT: The next individual I'd like to call is Randy Sparks. Mr. Russell if you want to bring your client in that may be the easiest way. I believe he's down here in room 8.

ROBERT G. RUSSELL: Do you have a preference for which side you . . .

WITT: Does matter. We'll put him on that side because that's where the microphone is. And we've got the press in the room

that's trying to pick up everything that's said so we'll. Mr. Sparks if you would, raise your right hand. You do solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

RANDY SPARKS: I do.

RUSSELL: Mr. Chairman, as you know Mr. Sparks is presently under indictment here in Cole County and you all have a transcript of his Grand Jury testimony and a copy of the statement that he gave under oath to the Prosecutor's investigator, Mr. Lee. And then so far as the interrogation relates to those items that are covered in those two documents Mr. Spark will certainly answer your questions. If it gets into some area that I'm concerned about, I may instruct him not to answer if you went outside of that scope. Let you all know that in advance. It could come.

WITT: Okay. For the rest of the committee I've known you for a number of years but why don't you introduce yourself and your role here so that everybody . . .

RUSSELL: My name is Robert G. Russell. I'm a lawyer in Sedalia, Missouri. I represent Mr. Sparks in the matter before the Circuit Court of Cole County that's presently pending. And I represent him here personally today.

WITT: Okay. Mr. Sparks, we do appreciate you taking the time to be here today and answer our questions.

SPARKS: My pleasure.

WITT: If you would for the record just give your name and address.

SPARKS: It's Randy K. Sparks. 706 West Broadway, Sedalia, Missouri.

WITT: Okay. And what is your occupation Mr. Sparks?

SPARKS: I'm an attorney.

WITT: Okay. And do you now work for the Secretary of State's office?

SPARKS: I do not.

WITT: Okay. Have you in the past worked for the Secretary of State's office?

SPARKS: Yes.

WITT: During what time period did you work for the Secretary of State's office?

SPARKS: January of 93 to middle of September of this year.

WITT: Okay. What was your capacity with the Secretary of State's office?

SPARKS: Originally I began as an Administrative Assistant and moved into the position of General Counsel or Chief Counsel, whichever you like to call it.

WITT: Okay. In your capacity as a, well I guess, when did you move into the capacity of General Counsel or Chief Counsel?

SPARKS: I believe it was in April or May of 1993.

WITT: Okay. In your capacity as General Counsel did you commonly answer legal question

on behalf of the Secretary of State's staff and herself individually?

SPARKS: Yes.

WITT: And did you also answer legal questions based on elections and other matters dealing with the Secretary of State's office to other election official throughout the state?

SPARKS: I did not give legal advise. But, yes, I did discuss or talk with other election authorities in regards to Election laws.

WITT: Okay. At, I guess, when did you first become aware that the Secretary of State's son was attempting to or had filed for office?

SPARKS: I'd say within January or February of this year.

WITT: Okay. And how did you first become aware that he'd had filed?

SPARKS: I believe that Ms. Moriarty had mentioned it to me.

WITT: Okay. Do you recall about what date that was?

SPARKS: Other than January or February I can not give you an exact date.

WITT: Okay. So at that point did she indicate that he had filed or was going to file?

SPARKS: That would have been before the filing actually opened up.

WITT: Okay.

SPARKS: It was prior to the

filing opening up.

WITT: And that he was intending to file, I guess.

SPARKS: Correct.

WITT: Did you ever know that he did come into the office to file?

SPARKS: Not until after they'd closed the filing. What I mean by that is March 29th.

WITT: Okay. When did you become aware that he had actually filed or attempted to file?

SPARKS: Sometime after March 29th. I can't give you an exact date.

WITT: Okay. Do you have any idea, a month?

SPARKS: I'd say it was in April.

WITT: Okay. Sometime in April then?

SPARKS: Yes.

WITT: Okay. So you didn't, you weren't aware of him filing? You didn't see him in the office on the 21st or attempting to file on the 21st?

SPARKS: No.

WITT: Okay. And your office is here in the Capitol or over in . . .

SPARKS: It's over in the Missouri State Information Center.

WITT: Okay. So the first time that you became aware that he actually filed or attempted to file was sometime in April after filing had closed?

SPARKS: Correct.

WITT: How had you become aware that he had filed or attempted to file?

SPARKS: I remember somebody telling me, but I can't tell you who it was. I don't remember who it was. I don't know if it was general office talk or what.

WITT: Okay. When did you first become aware that there was a problem with Tim Moriarty's filing?

SPARKS: Sometime in late April or early May of this year I received a telephone call from Joseph Carroll.

WITT: Okay. And what was the nature of that call?

SPARKS: He had contacted me and indicated that one of the secretaries in the Capitol office had screwed up, I don't know his exact words, screwed up, made an error, had failed to get the signatures on or failed to get the affidavit completed on the Declaration of Mr. Moriarty's.

WITT: Did they tell you which signatures, if any, were missing?

SPARKS: All of the signatures.

WITT: They told you that all of the signatures were missing?

SPARKS: Yes.

WITT: Did they give you that background information as to how those signature came about not to be there?

SPARKS: Not beyond saying that it was the fault of the secretary. That she failed to get the signatures.

WITT: Okay. So they, did they say directly or imply that Tim had actually come in and attempted to file and maybe didn't sign or the signatures were....

SPARKS: He didn't say one way or the other. I guess I assumed that that would have been the case, yes.

WITT: Okay. And what did you tell him in regard to obtaining those signatures or what did you tell him about the validity of that document?

SPARKS: I never saw the document. The only conversation that I had was with Mr. Carroll. I indicated to him, I asked him, oh, two or three times whose fault it was. Because to me that was a relevant issue as to who fault it was. And he continually said it was his secretary's. And I told him then based on if it was an error of the secretary then it is our responsibility to go back and correct that error.

WITT: Okay. Did you tell him how to go about and correct it?

SPARKS: No. I just told him to go back and complete the affidavit, yes.

WITT: Okay. Do you recall if that was in the same conversation? He called you up and said, "We've got this problem" or did you hang up and take some time?

SPARKS: No. It was only one conversation.

WITT: Okay. And was it on the phone or was it in person?

SPARKS: To the best of my memory, it was on the telephone.

WITT: Okay. Did you talk to anyone else about the problem with that document?

SPARKS: No.

WITT: Okay. So you didn't talk to Mr. Wiseman?

SPARKS: No.

WITT: Did you ever mention it to the Secretary of State?

SPARKS: No.

WITT: Okay. Is there a reason why you didn't talk to the Secretary of State about a problem with her son's filing?

SPARKS: Well, just for that reason. I thought since it was a problem with her son's Declaration, I didn't feel it was appropriate to bring her into that matter.

WITT: Even if she wasn't involved in the decision of how to fix it, is there a reason why you didn't tell her that there had been a problem or there was a problem?

SPARKS: I just, in my mind it was best not to bring her into the matter, since it involved her son.

WITT: Okay. So did you ever discuss the problem of the document with her?

SPARKS: Not until it became public in June.

WITT: Okay. After it hit the press.

SPARKS: Correct.

WITT: And the investigation began?

SPARKS: Correct. Now I assumed that she did know about it but I did not talk to her about it.

WITT: Okay. So the only person you discussed this problem with was Joe Carroll?

SPARKS: Correct.

WITT: Okay. And that was on the telephone, to the best of your recollection?

SPARKS: Correct.

WITT: While you served as legal counsel for the Secretary of State did you routinely deal with documents that had problems with them and errors in one form or another?

SPARKS: Not so much in the Elections Division. We had that more problem in the Corporations Division. We, you know, virtually deal with millions of documents a year in Corporations and there's, we've got a large staff and they're an excellent staff. But occasionally mistakes are made. And we go back and correct those mistakes.

WITT: Okay. So that was a common thing, well, not really common, but it happened in the Corporations area?

SPARKS: Correct.

WITT: Are you familiar with any other problems with candidate filings. Where a document had to be corrected or changed later?

SPARKS: No.

WITT: Are you aware of any other documents that were incomplete or that didn't have all of the information on them?

SPARKS: No.

WITT: In the Election area?

SPARKS: No.

WITT: Have you since gone back and looked at any of those documents?

SPARKS: I have not. It's my understanding that the Attorney General's office has reviewed those documents.

WITT: Okay. And if I were to tell you that there were some that did not contain the attestation of the, of any officer of the Secretary of State's office or any employee of the Secretary of State's office would that surprise you?

SPARKS: The only knowledge I would know of that is in reading a deposition of one of the secretaries, Margaret Freeman.

WITT: Okay. So you didn't actually deal with the documents themselves?

SPARKS: No.

WITT: And you never did see the document of Tim Moriarty's filing?

SPARKS: No.

WITT: When you talked to Joe Carroll on the phone, did you indicate that it was important to have both signatures on the document, or did you deal with that issue at all?

SPARKS: I didn't deal with the issue. I just assumed that they would go back and complete the affidavit the way that it should be completed.

WITT: Okay. Did you tell them

anything about how to go about maybe making a notation that it was signed later because of clerical error?

SPARKS: No.

WITT: So you just wanted them to go back and get the signatures.

SPARKS: Go back and complete the affidavit.

WITT: Okay. If they completed the affidavit as it was showing a date of filing of the 29th and this was sometime later, how can you advise an individual to attest that a signature occurred on the 29th that did not occur on the 29th?

SPARKS: I didn't know that. I didn't know there was even a date on the affidavit.

WITT: Okay. So to your knowledge it . . .

SPARKS: I assumed it was a blank affidavit.

WITT: Okay. What date did you anticipate they would put in on that?

SPARKS: Well the way you do an affidavit is you got someone attesting to someone else. You have both people there and they attest to and put down that day.

WITT: Okay. Did you see any problems in the filing of a candidate that was dated sometime in April when the filing period closed in March?

SPARKS: I wasn't aware of that.

WITT: Okay. So you weren't familiar with that issue?

SPARKS: No.

WITT: Okay. So you never discussed with anyone else except Joe Carroll the problems with Tim Moriarty's affidavit?

SPARKS: Correct.

WITT: Okay. I think that's all I have. Is there other questions from committee members? Representative Wible.

WIBLE: Mr. Chairman I don't know this stuff that we're allowed to get into here. I have some questions about the Philadelphia Two Initiative. I don't know if that goes beyond what we are to . . .

WITT: The what?

WIBLE: The Philadelphia Two Initiative.

WITT: Okay. I would like to at least at this point keep the scope directed toward the filing. If it is relevant to the way that signatures are obtained and that kind of thing then, signatures of employees and attesting documents that is relevant to that issue we can go into it. If it's beyond that issue and deals with other issues in the Secretary of State's office, at this point, I'd like to limit the scope. Representative Gaw.

GAW: Thank you, Mr. Chair. Randy, if I understand you correctly, you did not see this document prior to talking and giving Joe Carroll the advice you just testified about.

SPARKS: Correct.

GAW: And he told you that a secretary had made a mistake.

SPARKS: One of the secretaries.

I cannot tell you if he said Barbara Campbell specifically or if he just said secretary.

GAW: Okay. But you did know that this was the filing of Tim Moriarty?

SPARKS: Yes.

GAW: And you were concerned enough about it that you made a notation that you should not talk to the Secretary of State about it. Is that correct?

SPARKS: Not a written notation. In my mind I saw two problems. One was a legal issue and one was a PR issue. The legal issue to me was simple. It was our error, it's our responsibility to correct. The PR issue, as an attorney, you got to give legal advice based on the law, not on PR. But obviously there is still a PR problem. So what I did is I did not bring Ms. Moriarty into it intentionally, to avoid that part of the PR problem.

GAW: I see. So you were conscious of the fact that this could be a public relations problem.

SPARKS: Correct.

GAW: And you did not go down and look at that document, even though you were concerned about how important this particular piece of advice was?

SPARKS: No. I relied on Mr. Carroll. I always found Mr. Carroll's conversations with me to be accurate and truthful.

GAW: All right. So if in fact the background was not that it was a secretarial error, but that it had been due to someone holding paperwork, would that

have affected your opinion?

SPARKS: Obviously.

GAW: How would it have affected it?

SPARKS: Well, you, I guess I'd have to look at the facts, the particular facts to give you a legal answer. But if it's not a clerical error, then the advice doesn't follow along. My advice was based on a clerical error. If there is something other than a clerical error, then you have different advice.

GAW: Did you give Mr. Carroll instruction in regard to how this document should be executed after the filing deadline?

SPARKS: No. I just told him to go back and complete the affidavit.

GAW: All right. Were you aware of the fact that when this document was completed that Barbara Campbell signed it prior to Tim Moriarty's signature?

SPARKS: I was not aware of any of that information.

GAW: You've subsequently have learned that to be the case.

SPARKS: Since it became public in June.

GAW: All right. Would that have been something that you would have instructed if you would have known that that was the way it was done? Would that have bothered you?

SPARKS: It's not a correct way to do an affidavit.

GAW: All right. And what would be the correct way?

SPARKS: The correct way would be to have both the candidate and the attester there at the same time to witness the signature and put down the correct affidavit, the correct date on the affidavit.

GAW: Now did you, have you ever had a conversation, any conversation with Tim Moriarty about this matter?

SPARKS: No.

GAW: With Judi Moriarty?

SPARKS: No. Not until it became public.

GAW: But you did at that point?

SPARKS: Yes.

GAW: I don't know, Mr. Chair, If I could inquire I don't know if this is something we can get into or not. I don't know if there is any privilege being claimed here about the conversations between Mr. Sparks and Ms. Moriarty.

WITT: "Inaudible"

RUSSELL: That's certainly a questionable area. It's our concern that he is the attorney for the Secretary of State and her staff and it's a privilege to be waived by the Secretary rather than by Mr. Sparks, obviously.

GAW: Is it, Mr. Russell, your position than that it would, that you would instruct him not to answer inquiries about conversation between him and Ms. Moriarty?

RUSSELL: Those that came after the investigation in June I would tell the committee that if the Secretary waives the privilege, he will obviously be happy to testify about it. But it's

not his privilege to waive.

GAW: I understand. That's why I wanted to clarify.

RUSSELL: Yeah. I would have to instruct him to not answer in that situation.

GAW: All right. We may want to get into that later on, Mr. Chairman.

WITT: I don't know, Ms. Moriarty one of her attorneys is present. Do you have any knowledge as to whether or not the Secretary of State is going to be willing to waive the privilege regarding conversation with Mr. Sparks?

STUART BERKOWITZ: I can't answer that sitting in here right now. I can tell you that until she does it's preserved.

WITT: Yes. I understand that. I was just, I didn't know if there had been previous conversations

BERKOWITZ: I did not anticipate it coming up

WITT: Okay.

BERKOWITZ: So I can try to get you a response in due course.

WITT: Okay. If you would please check into that issue for me and thank you.

GAW: I would like to follow up then just briefly.

WITT: Representative Gaw.

GAW: Mr. Sparks, if it's your position that you are the attorney for the Secretary of State, it's my understanding that even though you were attorney for the Secretary of State you did not consult with

her regarding these facts that came to your knowledge. Is that correct?

SPARKS: That's correct.

GAW: On her son's filing.

SPARKS: That is correct.

GAW: All right. Nothing further.

WITT: Further questions? Representative Richardson.

RICHARDSON: Just a couple. At the time that you were contacted by Joe Carroll. I think you said it was by telephone?

SPARKS: Correct.

RICHARDSON: It was well beyond the deadline for filing. Did I understand you to say that you were not aware that it was beyond the deadline for filing?

SPARKS: No. No, it was beyond, it was beyond the March 29th filing, close of filing.

RICHARDSON: Okay. And you were aware of that?

SPARKS: Yes.

RICHARDSON: Okay. Other than the one telephone conversation with Joe Carroll prior to the time it became public and the investigation began, did you talk with any other member of the Secretary of State's office or staff about this matter?

SPARKS: No.

RICHARDSON: No one else?

SPARKS: No.

RICHARDSON: Just the one

conversation. The one time. How long did that conversation take?

SPARKS: I don't know what to say Representative. Not, it didn't take an hour obviously but the exact time I could not tell you.

RICHARDSON: Were you aware of issues surrounding substantial compliance at the time this matter came up.

SPARKS: Yes.

RICHARDSON: And was it, at least in part, was your decision, at least in part based upon Missouri case law on substantial compliance?

SPARKS: Yes.

RICHARDSON: You were not made aware during the conversation with Mr. Carroll that the initial contact, or the initial filing process started on the 21st.?

SPARKS: No.

RICHARDSON: And you did not inquire into that?

SPARKS: No.

RICHARDSON: If a person had come to Jefferson City, paid their filing fee, filled out the worksheet, and left the office believing that he or she had been filed, would it still be your opinion that securing his or her signature on a Declaration form would be a clerical matter?

SPARKS: I think you need to look at another step. And say was it the secretary's fault that he didn't get the signature's? If that's the case then, yes. If it's the candidate's fault that you

don't have the signatures, then it's the candidate's problem.

RICHARDSON: Would it be your opinion that it's the candidates responsibility to make certain that all of the necessary documents are signed? Or is it the responsibility the staff person who knows which ones have to be signed and what has to be completed?

SPARKS: From my observations on the times that I was in the Capitol office and individuals come in to file, especially ones who had just done it for the first time is, they sit down, they're nervous, they're scared, they don't know what's going on. They follow the instructions of the employee. So, I guess to answer your question, is I think it's the employee's responsibility to make sure that they do everything that they are supposed to do. And I don't feel it's the, should the, that the candidate should be penalized if that employee fails to do something.

RICHARDSON: And that's congruent with what Missouri's case law is on substantial compliance. Is it not?

SPARKS: That is correct.

RICHARDSON: Did Mr. Carroll ask you for any specific guidance on how to go about completing the Declaration?

SPARKS: No.

RICHARDSON: He didn't ask you if you should make notations on it or put something in writing or stick something to it that indicated why it was being signed after the deadline or on a different date then was actually on the document?

SPARKS: No.

RICHARDSON: Did it occur to you that that might be something that you should advise him on even though he did had not asked about it?

SPARKS: It did not occur to me at the time but it certainly would have made things a lot cleaner if he would have, that would have occurred.

RICHARDSON: Do you think that if those notations had been made on there that that would have cleared up the question or the problem about whether or not there had been tampering with an official document?

SPARKS: I'm not sure that I have an answer to that question.

RICHARDSON: But at any rate you never talked to the Secretary, Secretary Moriarty about this before you rendered your opinion.

SPARKS: Correct.

RICHARDSON: No one ever told you in the course of this and the only person you talked to was Joe Carroll, no one ever told you that the Secretary had any knowledge of it?

SPARKS: Correct.

RICHARDSON: In fact, did you ask Mr. Carroll if the Secretary knew about this?

SPARKS: No.

RICHARDSON: You received no information prior to, or at the time of, or subsequent to that, that Mrs. Moriarty had any dealings with this matter at all?

SPARKS: No.

RICHARDSON: In fact, whatever information you had was to the contrary, I assume.

SPARKS: Correct.

RICHARDSON: I have no further questions.

WITT: Well I just have one more. Did you ever contact Tim Moriarty to tell him that there was a problem with the document or that he needed to come in and sign it?

SPARKS: No.

WITT: So you never did contact him?

SPARKS: No.

WITT: Are you aware if anyone from the Secretary of State's office contacted him and told him he needed to come in and sign it?

SPARKS: I don't know.

WITT: Anything further? Thank you very much. I do appreciate you taking all morning to be here and having your attorney present. Mr. Russell, thank you.

RUSSELL: Thank you.

WITT: Oops hang on. Hang on just one second.

GAW: I'm curious about his last comment that Representative Richardson just stated. He stated that you had no information, if I understood it correctly, that indicated that the Secretary of State knew there was a problem with the filing. Did I understand your answer to be that that was the case?

SPARKS: The only information

I had was, as I indicated, the conversation with Mr. Carroll. Mr. Carroll indicated that it was a secretary's error and that's all the information I had.

GAW: But you don't know one way or the other whether the Secretary of State knew?

SPARKS: That's correct.

GAW: Okay. Thank you.

SPARKS: Okay.

WITT: Thank you.

RUSSELL: Mr. Chairman, is Mr. Sparks discharged at this point from the subpoena or?

WITT: I would like to have him available for recall if we need to but certainly unless we contact him, and we will give him some appropriate notice, but I do not think there will be a reason to recall him but we may.

RUSSELL: Okay. Fine. Thank you.

SPARKS: If I may?

WITT: We'd like to reserve that, yes.

SPARKS: Mr. Chairman if you need me back tomorrow I'd appreciate it if would be late tomorrow afternoon. I have three cases in court tomorrow morning so.

WITT: Okay.

SPARKS: I'll have to juggle a little bit.

WITT: I understand the practice of law.

SPARKS: Thank you.

WITT: Next. Trying to keep another individual from having to pay a lawyer too much time we'll call Nadine Barrows. If you will please raise your right hand. Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth so help you God?

NADINE BARROWS: I do.

WITT: Will you please state your name for the record.

BARROWS: Shirley Nadine Barrows.

WITT: Okay. And the gentleman sitting next to you I'll let him introduce himself just for the record so everybody knows who he is and what capacity he's here.

DOUGLAS HENNON: I'm Douglas Hennon with the law firm of Carson and Coil here on behalf of Ms. Barrows.

WITT: Okay. Ms. Barrows where do you currently live?

BARROWS: Highway 179, Jefferson City.

WITT: Okay. Are you currently employed by the Secretary of State's office?

BARROWS: Yes, sir, I am.

WITT: And for how long have you been employed there?

BARROWS: Eight years in June.

WITT: And in what capacity are you employed in the Secretary of State's office?

BARROWS: Administrative Aide.

WITT: Okay. And in what area?

BARROWS: My desk is the first desk inside the door, just to the left as you walk in the door.

WITT: Okay. So you're in the main office here in the Capitol building?

BARROWS: Yes, sir.

WITT: How long have you served in that capacity?

BARROWS: I have always been in that capacity.

WITT: All eight years?

BARROWS: Yes.

WITT: Okay. So you've served under a couple of different Secretary of States?

BARROWS: Yes.

WITT: Okay. Have you been involved in the filing of candidates for office during that entire eight year period?

BARROWS: No, sir. This is my first year.

WITT: Okay. So you had never been involved prior to this in the filing of candidates?

BARROWS: That's correct.

WITT: Okay. What was your capacity in filing of candidates this year?

BARROWS: Just told if they come in person and fill out the worksheet and everything and show proper ID to file them.

WITT: Okay. So you were actually doing the input of candidates that came into office?

BARROWS: Yes, sir.

WITT: How many candidates about filed this year?

BARROWS: I think it was over 500, but I don't know the exact amount.

WITT: Okay. And of those how many did you actually work on the filing of?

BARROWS: You know I've never looked that up.

WITT: Approximately.

BARROWS: Approximately, I would think I'd at least done a hundred or so of them, but I don't have anything to gauge that by.

WITT: Okay. So just, as people came in the door you would do the paperwork and help them get filed?

BARROWS: That's correct on the, except for the first day and the last afternoon. Pretty much on the first day and the last afternoon when they came in the door they already had that worksheet filled out because we had such a rush. That would be handed to us and we would go ahead. Otherwise when they came in they would sit down and fill out their worksheet and proceed on from that point.

WITT: Okay. And the worksheet would be filled out. You would take that information and put it into the computer?

BARROWS: Yes.

WITT: Okay.

BARROWS: No. The worksheet's filled out and the next step is to see if they've paid their filing fee.

WITT: Okay.

BARROWS: to the parties. If they hadn't paid their filing fees to the party then you would take their money or their check or however they, they could do a money order too if they wanted to. Then after doing that then you would clock that worksheet into a time clock.

WITT: Okay.

BARROWS: That would put the time on there that they were filing. And then you would enter it in the computer.

WITT: Okay. So each one went through the time clock. Then you entered it in to the computer. On the information that was entered into the computer what printed out from that? Was it the Declaration of filing?

BARROWS: The Declaration of Candidacy. Yes.

WITT: Had you worked with this program before? Was this the first time you'd worked with ...?

BARROWS: This is the first time I ever worked with it. Yes.

WITT: Okay. Did each one of those forms when it came out, was it fully completed? Or were there problems with any of the forms that you were aware of generally?

BARROWS: No, generally it was completed. The only time was, if you made a type-o or something, and it had come out

on the part where their name would appear, if say you had an e instead of an i or something, then you would correct that, go back in and correct it and print out another. But most of the time the Candidacy form itself, if that's what your talking about, came out correct. Yes.

WITT: Okay. So it would come out, you'd give it to the candidate to look at and make sure everything was correct on it?

BARROWS: Yes. You would tell him to read the upper part which pertained to showing their precincts and all that, and the ethics part was involved in the top part. Then the next section was how their name would appear on the ballot. Tell them to read both of those and if they agreed to what they were reading, they would sign the top line down below and you would sign underneath of it, and they would be a filed candidate.

WITT: Okay. Was there any problem with the computer as far as printing the date and time?

BARROWS: No, sir. None that I know of.

WITT: Okay. Did you ever file anyone between the hours of twelve noon and one o'clock in the afternoon?

BARROWS: Oh. Yes. I'm sorry. At that particular time for some reason the computer would put an XM instead of a PM. And if they come in and file between twelve o'clock and I don't know what the shut off time was, we're assuming around one o'clock, but I never clocked it in to see exactly what time it quit doing that. But it would show an XM

instead of a PM.

WITT: Would it print the time and then the XM or would it print just an XM?

BARROWS: Boy. It's been so long ago now I'm trying to remember. The X, I, it would have, I think it would have the time. I couldn't be a hundred percent, but I think it would have the time, then XM after it.

WITT: Okay.

BARROWS: Instead of a PM.

WITT: Okay.

BARROWS: But I could stand to be corrected on that.

WITT: What did you do with those, how many of those were there, I guess about, that you recall?

BARROWS: Well, each day, I mean each, the next morning after the filings, I would go through that list that we run out to be posted on the board and to check the XM's. And I would contact the computer person Hal Hebert and he would come over and change that. He knew how to change it to PM in the computer and nobody else did. Pardon me. But he would come over and change it then. So I don't know how many showed up that way but it was pretty frequent, because a lot of people would come over on their lunch hour or something and file. So I couldn't give you an estimated amount. I just know that we had to change, most every day we had some changes to make on it.

WITT: Okay. Did you do any change on the form itself if it came out with an XM? Just to

tell you, I've looked at some of the forms that have an XM and there's handwritten out beside it the time.

BARROWS: No.

WITT: Did you write that in or was it written in later by someone else?

BARROWS: I think that that was written. I don't remember changing it on any of them. But I think that might have been changed over at the Election Division after they were sent over there.

WITT: Okay.

BARROWS: And they would realize they had an XM on it.

WITT: Okay.

BARROWS: You would have to check that out with one of them.

WITT: Then after the candidate signed you would attest their signature and sign it yourself. Is that correct?

BARROWS: That's correct, yes.

WITT: Did you ever have occasion where you did not sign and attest the signature?

BARROWS: No. I didn't. Well now back up. The first day and the last afternoon when there was such a rush, Joe and Gene Carroll came over, Joe Carroll and Gene Wiseman came over from the Elections Division and they was doing the signing of it. We was, we had so many that first day coming through that we was putting it in the computer and doing it and then doing it and then we would hand that to them. And they would sign off on the bottom part after the

candidate had signed. Otherwise, yes, I always signed under the candidates if they wasn't present and doing that, then the person that filed them would sign under.

WITT: Okay. If you, was there ever a time that you might have received the money and signed the receipt for their filing but not done the actual affidavit portion of it?

BARROWS: No.

WITT: Okay.

BARROWS: They were there to file. You know they would go through with all the steps at filing so.

WITT: Okay. And so a document that had you signing off on the receipt of their money was probably one that you prepared the filing itself?

BARROWS: Put it in the computer you mean?

WITT: Right, put it in the computer, then attested the signature?

BARROWS: Yes. Pretty much so.

WITT: Okay. Would it surprise you to know that I'm looking at Representative Wible who is sitting here on the committee, her receipt of the fifty dollar shows your signature on it and then going back to the Declaration of Candidacy it shows her filing on February 23rd, 1994 at 8:48 a.m. but no signature at all on the Declaration?

BARROWS: No signature at all?

WITT: No.

BARROWS: On the Declaration. I suppose to be human is to error and it could happen. But you want me to come look at . . . ?

WITT: I'll just let you take a look at it for . . .

BARROWS: Well, it was one of those situations that it was very rare if it happened.

WITT: Okay. But that did happen occasionally?

BARROWS: I would assume it could have, because your showing me that it did.

WITT: This is the only one I've seen so far that you were, but some of these paid their money at the political party and to the, the receipt is issued from the political party and signed by someone the political party but the attestation signature is not there. But there are several of those.

BARROWS: Okay. Well, if we were hurried, as I said, to be human is to error and I suppose a few of those could have showed up.

WITT: Okay. But you're not aware of many of those or it wasn't a common practice for you to . . . ?

BARROWS: No, it was not a common practice.

WITT: To fail to attest the signature.

BARROWS: We usually signed underneath.

WITT: Okay. Do you recall March 21st of this year? That date?

BARROWS: Yes.

WITT: Okay. Do you recall Tim Moriarty coming to the Secretary of State's office on that date?

BARROWS: No, sir, I do not. I never witnessed him being in the office that day. Your asking me to recall the 21st and I said all along that I'm going with what they're telling me that Tim come in on the 21st and signed. But I didn't see him there on the 21st.

WITT: Okay. Were you working the day of the 21st?

BARROWS: I was working the day of the 21st.

WITT: And did you, were, what time, what are your hours?

BARROWS: From 8:00 to 5:00 and our lunch hour is very varied. We just go, especially when session's on, because we have a lot of people that just stop by and want to see the Secretary and if you're busy there you just take a lunch hour as you can get it.

WITT: Okay.

BARROWS: So, varied lunch hour from 8:00 to 5:00.

WITT: Okay. On the 21st you probably worked 8:00 to 5:00 with a lunch hour somewhere?

BARROWS: Yes.

WITT: Okay. So you did not see Tim Moriarty come into the office that day?

BARROWS: No, sir. I don't remember seeing him that day.

WITT: Okay. Do you recall him coming into the office on the 29th? The last day of filing.

BARROWS: No, sir.

WITT: Did you work that full day?

BARROWS: Yes, I did.

WITT: Okay. Did anyone tell you that Tim Moriarty had filed or was planning on filing for State Representative?

BARROWS: What time are you talking about?

WITT: Prior to the 21st, let's say.

BARROWS: Prior to the 21st?

WITT: Had you heard that he was intending to file?

BARROWS: No, sir.

WITT: Okay. On the day of the 21st, did you hear anything about his filing?

BARROWS: On the day of the 21st, and I'm assuming again it's the 21st, because I didn't have a date to go by, but I returned back to my work area and I'm pretty sure that I was returning from being in the copy room area, because in my memory when I'm bringing this back I'm coming down the hallway between Judi's office and going towards my desk. I'm not coming in from out of the hallway, so I don't think it was after lunch hour.

WITT: Okay. You were in the interior office.

BARROWS: Yes. I was within the office itself. I'm pretty sure. And I returned to my work area and Barbara Campbell had been working there. And as she got up to leave she said that she had filed Tim Moriarty, but there

was a hold on it and the paperwork is, was down in the bottom desk drawer.

WITT: Okay. And this was your desk?

BARROWS: This was my desk, yes.

WITT: Okay. So you had been off somewhere. Do you recall what time of day this was about?

BARROWS: No, I don't. I'm thinking it's afternoon because I don't remember that long before the end of the day came. I'm not thinking that I heard this and knew it all day or anything. I'm thinking it's afternoon, but I don't really know for sure.

WITT: Okay. So you came back to your desk?

BARROWS: Yes.

WITT: Barbara Campbell was sitting at your desk?

BARROWS: Yes. Had been using, she used my desk as a work area as well as Juli's.

WITT: Okay. And she told you that Tim Moriarty had been in.

BARROWS: Had been in and filed, but there was a hold on it. And she had put the papers in the bottom left hand desk drawer.

WITT: Did you ever look to see if those papers were there?

BARROWS: I didn't have any reason to check them out. At the end of that day I do remember seeing the papers just as they were moved from the front of the file folder to the back of the file folder to be put on hold. That's when I just glanced at them in

like two or three seconds time, never read.

WITT: Okay. Did you move them from the front of the file, front of the thing to the back?

BARROWS: Yes. I realized that Barbara had not placed them to the back of the file folder like she intended to. That when I opened up the bottom drawer. They was in front and so I stated to her, "Didn't you intend to put these to the back, if you don't want them to get mixed up with tomorrow's filings?" She indicated that she did. So I took them out and that's when, just briefly, seen the Candidacy thing on top and they was put to the back.

WITT: Okay.

RICHARDSON: I'm sorry Mr. Chairman, I didn't understand the last part of that. That's when you just briefly saw what?

BARROWS: The Declaration of Candidacy file on top. But didn't read it. Don't know if it was signed, but it was there at that particular time.

WITT: Okay. So you weren't, you didn't know whether it was signed or not?

BARROWS: No.

WITT: You didn't see any signatures and didn't, weren't wasn't working on it?

BARROWS: No. This was within like two or three seconds time. Just shifting from one, in front of the folder to the back part of the folder.

WITT: Okay. Now, explain to me how this bottom desk drawer is, because I'm having trouble.

BARROWS: You have a lower, say this is my desk, and you have a lower filing drawer there. That filing drawer will hold fan file folder that I think it has from one to 31. So each day if you've got something you can slip in there and you can pull it out and know you got to do it that day.

WITT: Okay.

BARROWS: That is setting in that, along with other papers and stuff to the back part of that.

WITT: Okay.

BARROWS: There is like a dictionary and a county roster and everything to the back of that. And also to the back of that file folder was other papers. For instance copies of all the 50 Secretary of States. We get frequent calls for telephone numbers and stuff for that. And I think that a printed out sheet of like your Rep's home addresses and all that. I keep all that handy right behind that file folder. So these papers were stuck in between that fan file folder and those other papers. If you'll visualize a filing drawer that you're opening up and you're just going to see the top part of papers laying horizontally in that filing folder. That's what these sections of papers would have looked like behind that fan folder, file fan folder.

WITT: You have a fan folder sitting up right?

BARROWS: Up straight, yes.

WITT: And then the papers, were they this way with the fan folder?

BARROWS: They would be slid down.

WITT: Or were they laying down?

BARROWS: Can I show you?

WITT: Yes. Here is the fan folder sitting up straight.

BARROWS: Okay. They would be filed back here and these other papers would have been filed in front of it.

WITT: Okay.

BARROWS: Okay?

WITT: Okay.

BARROWS: So you've got, there in between those sections of papers.

WITT: Okay. Was, you go ahead and sit down, were there other candidate filing papers in that drawer?

BARROWS: Only to the front. We put them to the front of that file folder everyday when they were filed. They just automatically went to the front of that fan file folder.

WITT: Okay. So each person that came in to file you took their papers and you slipped them

BARROWS: Those papers went there until the end of that day.

WITT: Okay.

BARROWS: And at the end of that day Elections would send somebody over to get that group of papers.

WITT: Okay.

BARROWS: Because it had money attached.

WITT: Okay.

BARROWS: And it never stayed in the desk drawer over night. And it never went in her office. They always sent somebody over to pick it up.

WITT: Okay. On the 21st were there very many people that filed that day? Do you recall? Was there a lot of papers?

BARROWS: You know I have, I don't recollect at all. I really don't.

WITT: Okay. So you, how did you determine that Tim Moriarty's paperwork was among those that were supposed to be filed I guess?

BARROWS: Because Barbara Campbell took the group out at the end of the day, when we were getting ready to close at the end of that day, pardon me I've got indigestion, anyway, she took the papers out and she had just at that point stuck his filing, papers that she had filed, just to the back of that group for the day and she removed it from the back. And, as I said, I think it was her intentions when she put it back in the drawer to put it to the back of the file folder so it didn't get mixed up until he notified her that he wanted to go ahead with the filing. I don't know what the hold was.

WITT: So, there was a large group of, or there was several ones sitting in there in front of the folder?

BARROWS: Already sitting there. Yes.

WITT: Okay. And she picked

up all (End of Tape #5) of them. And then put one, Tim Moriarty's, back in and left the other ones out? Is that how it happened?

BARROWS: She took the others out because we were getting ready to close at the end of the day, and they would go over to Elections. She didn't want Tim's going over to Elections because she was not going through with the filing yet on it.

WITT: So, it was left in the drawer, in front of that?

BARROWS: She had put it back to the front part where she intended to put it back to the back part because as to not get it mixed in with tomorrow's until she was notified on it.

WITT: Okay. And so then you took it and put it behind the accordion file?

BARROWS: Yes.

WITT: Okay. And set it in there?

BARROWS: With the other papers in front of it.

WITT: Did Barbara Campbell indicate to you why it was being held?

BARROWS: No, sir. She did not.

WITT: She just said it was being held.

BARROWS: She just said it was on hold. Yes.

WITT: Then you didn't look at it to see if it was complete or what, or whether it had been clocked in?

BARROWS: No, sir. I didn't. I really had no reason to. It was just another filing to me. And one I hadn't initiated.

WITT: If a candidate form had been out for Tim Moriarty, that means his name had probably been entered into the computer?

BARROWS: That's correct.

WITT: Is there any way that you can print one of those out without entering his name into the computer?

BARROWS: Not to my knowledge.

WITT: Okay. Did you see the candidate list for that day? Was Tim Moriarty's name on that list that printed out on the computer?

BARROWS: On the candidacy list at the end of the day, his name was not on it.

WITT: Okay. Did you have reason to look for him directly?

BARROWS: No, I didn't.

WITT: Okay. Are you aware of what happened, why his name was not still in the computer?

BARROWS: That, I have to take the Fifth.

WITT: Okay. The, at this point, okay, the name was at one point obviously entered into the computer?

BARROWS: I can tell you, sir, I saw the name in the computer.

WITT: You saw the name in the computer?

BARROWS: Yes, sir.

WITT: Did you or anyone else delete that information from the computer?

BARROWS: On this, I would have to take the Fifth.

WITT: Did you delete that information from the computer?

BARROWS: On this, I would have to take the Fifth.

WITT: Okay. When was the next time that you saw the documents of Tim Moriarty's filing in your file drawer?

BARROWS: The next time I saw them? I really, now were talking about the end of that day?

WITT: Correct. You'd moved them from the back.

BARROWS: And they had been placed to the back. I never saw them. I'm trying to think. This has been a long time ago. I didn't take them out the last day and process them. So I didn't see them. I never really read his candidacy papers or anything.

WITT: The papers were placed in the back of the drawer?

BARROWS: Yes.

WITT: Did you ever look to make sure they were still there or whether or not they were still there, in between the 21st and the 29th when filing closed?

BARROWS: Let me talk to you a minute. Can I talk to him a minute?

WITT: Certainly.

HENNON: Just for the record, Mr. Representative, could you repeat that last question?

WITT: Okay. My question was - she placed them behind the file folder on the 21st, the evening of the 21st. Had she seen them any time, looked to see if they were still there? Seen them in any way between the 21st when she put there until the 29th when filing closed?

BARROWS: I need clarification on one thing. Are you talking about the Declaration of Candidacy or are you talking about just the filing papers?

WITT: Well, let's divide it up. The other filing papers.

BARROWS: The other filing papers.

WITT: Yes. Did you see those anytime between the 21st and the 29th?

BARROWS: Okay. I, the last day of filing because the papers were still down in the desk and I, when I come in in the morning I have a habit of putting everything on top of my desk that has to be done that day, So I don't forget it and it goes on to another day. So I knew that that was the last day of filing and those papers were still unfiled down there. I had not looked at them or bothered them. They were there where they were put. But I pulled them out. They were turned face down on my desk just under a, there is like a calendar, a daily calendar, a square daily calendar thing. I just slid it under the corner there and told Barbara that Tom's papers was, Tom, Tim's papers were placed there and that if at the end of the day if they weren't taken care of they would be obsolete and just need gotten rid of. So they were placed there upside down. I never read them or

looked at them or anything.

WITT: Okay.

BARROWS: Okay.

WITT: Was the Declaration of Candidacy with those papers when you pulled them out and put them under the edge of your calendar?

BARROWS: No.

WITT: What was the date that you saw Tim Moriarty's information in the computer?

BARROWS: You're going to bear with me on this I hope. I said all along I didn't see him there that day. And so I'm going by what everybody else has reported that he filed on the 21st and that this was done on 21st. So it would have been the 21st, the day that we're talking about. If that was the 21st.

WITT: The date that you were told Tim filed which presumably

BARROWS: Was the day I seen his name in the computer. Yes.

WITT: Did you see his name in the computer at anytime after that?

BARROWS: Not until the 29th. The last day of filing.

WITT: And you did see his name there on the 29th?

BARROWS: Well, I didn't put it in, so I didn't really see it there. No. But he was on the printout on the 29th as the end of the day.

WITT: Was his name on the print out on the 21st? Or the date that he supposedly came to

the office to BE filed?

BARROWS: I didn't look for it individually, but no, sir, I don't think it was.

WITT: Okay. But his name was on the printout on the 29th?

BARROWS: It was on the printout at the end of the day on the 29th, yes.

WITT: Do you recall what time it showed?

BARROWS: Well, we just run the printout at the end of getting them all filed that day and that, sir, was after five o'clock. Everybody had clocked in before five o'clock, you understand. And the ones that we hadn't got worked up in the computer yet were brought inside of her office, you know, the line of people. And we went ahead and took them. Their worksheets had already been put in the time clock itself.

WITT: Okay.

BARROWS: So you entered that filing according the time that's on that worksheet. So the time was before five o'clock, but you were actually doing it after five o'clock to get everybody filed.

WITT: Okay.

BARROWS: Okay. Now I've lost track of the question.

WITT: Okay. So his name did appear on the 29th?

BARROWS: On the 29th at, okay, at the end of the day, then.

WITT: Do you recall the time that it showed that he filed on that, that printout does include the time?

BARROWS: The printer includes time. No. I never looked at direct to see. I didn't read his filing that day.

WITT: Did you see his name being input into the computer on the 29th?

BARROWS: No, sir, I did not.

WITT: Did you input his name into the computer on the 29th?

BARROWS: No, sir, I did not.

WITT: Have you talked to anyone who's said that they put his name in the computer on the 29th?

BARROWS: Have I talked to anybody that's said that they put his name? When I came back to my work area after being gone from lunch, and I'm pretty sure it was lunch, on the 29th, because as I rounded the corner of my desk to put my purse down underneath, and I had my purse in my hands, that's how I think it was right after lunch hour. As I said, we don't have set lunch hours because, so I don't know exactly what time that was. But Barbara had been at my work area and when she got up to leave the work area she said, "By the way, Tim Moriarty is filed." So if that answers your question.

WITT: Okay. But she did not say, "I entered his information into the computer"?

BARROWS: Well, no. She said, "By the way, Tim Moriarty is filed."

WITT: Okay. Did she say whether or not Tim Moriarty had appeared to file on that date?

BARROWS: No, sir. I didn't ask that question either, so . . .

WITT: Okay. Did you ever see the Declaration of Candidacy for Tim Moriarty which has the date of the 29th on it?

BARROWS: I was shown Declarations of Candidacy at the Prosecutor's office and I think they had two Declarations there and I can't tell you if one read the 29th or not. The one they were bringing attention to was the one that had the XM on it. And that is what we dwelt on. And I honestly can't tell you if the other one read the 29th or not.

WITT: Okay. Did you see it on the 29th or see a Declaration of Candidacy for Tim Moriarty on the 29th?

BARROWS: On that date, myself, no. I don't remember seeing it.

WITT: Okay. Did you take the papers out of your desk like you normally do and give them to the Elections people to take over?

BARROWS: I don't know who did it at the end of the 29th. It was whoever was standing by the drawer and I could have. Now, we go through those papers, and especially the last day of filing, those papers are put in front of that file. But we have press calling, so you would thumb through all of those papers. And if they called and asked about the filing in the 91st or something, you were mainly looking at the section on that, where you knew where to glance your eyes at to see what they run for, State Representative, 91st district or whatever. You would glance at that sheet to find that information and give it

to press. So you were thumbing through those, but to sit down and read anything, no.

WITT: Okay. Any press call in regard to Tim Moriarty, call you in regard to Tim Moriarty on that date?

BARROWS: I can honestly say I don't remember any, but it was really really hot and heavy there towards the last.

WITT: Did you ever have any conversations with Tim Moriarty about his filing?

BARROWS: No, sir.

WITT: Did you ever have any conversations with Secretary of State about Tim Moriarty's filing?

BARROWS: No. After this all came about she went to walk one day she said, "All, I can say is everyone be honest and tell the truth."

WITT: Okay. But you never did talk to her about Tim Moriarty's filing, prior to this investigation?

BARROWS: Prior to this investigation? No, sir.

WITT: Okay. So she never said, "Tim came in yesterday and filed" or "Tim is considering filing, but we want to find out about his work?"

BARROWS: No.

WITT: Or she never discussed that with you.

BARROWS: No. The only part I heard about Tim's filing is from Barbara Campbell.

WITT: Okay. When did you first learn that Tim Moriarty's

Declaration of Candidacy lacked the signatures that it needed?

BARROWS: I had gone on vacation on May the 4th and come back on May the 11th. And when I, I don't know if it was exactly on May the 11th, but it was shortly around that time. I hadn't been back to work too long, when Barbara Campbell came to me and said that there had been a question about Tim's Declaration of Candidacy not being filed and did I remember seeing it? I paused and said, "I don't ever remember seeing Tim filed and I didn't file him and so, therefore, I don't ever remember seeing the Candidacy." And she said that it wasn't any big deal, she didn't think, but she had been called over to Elections to sign it, because it didn't have a signature on it. She had done so, but they indicated that it wasn't a big problem.

WITT: Did she indicate who had called her over to Elections to sign it?

BARROWS: I think she just made reference to she had gone over to Elections to sign it.

WITT: Okay. A little bit off the subject. Were there any general raises given in your office right around this time?

BARROWS: I didn't hear about any raises until after all of this came to light and hit the papers. I was not aware of any raises.

WITT: I've been told that Barbara Campbell may have received a raise sometime around March, the end of March. Did you receive a raise about that time?

BARROWS: No, sir. The only

raise I had received is the cost of living that went through. I've never received another raise other than that.

WITT: Okay. I think that's all I have at this time. Any other questions?

SHELTON: I have a couple.

WITT: Representative Shelton.

SHELTON: Again could you tell us why Barbara Campbell put the filing documents in your desk? Did she have a desk?

BARROWS: No. Actually at that time, when Barbara was brought in, hired in, she was to sit at the desk behind me and help with the scheduling and she said she had been hired to straighten out, things weren't running real smooth in the office and kind of oversee and implement some new changes. And she was to sit at the desk behind me and help with scheduling also. Lois Wible had sat there before, and she left and went to the Treasury Office. So that left the opening. After she was there about two weeks, or two to three weeks, she indicated that she needed more help. That there wasn't enough hours in day to get done what she needed to do. So they brought Juli Rodenburg over, Juli Haynes Rodenburg over, and she started helping. Started out to be part time I think, over in our office. She had been in Elections in our other divisions. She came over to fill in, but Juli just ended up staying pretty much permanently, so she was sitting at that desk. And that made Barbara a floater between the two desks, because there really at that time was not a desk for Barbara until after Ron Casteel left.

SHELTON: So you didn't see Tim either on the 21st or the 29th?

BARROWS: No, sir. I did not witness Tim filing.

SHELTON: Do you have any knowledge or did you at any time destroy any Declaration of Candidacy?

BARROWS: sir, on this I would have to take the Fifth.

SHELTON: You stated that at one point you saw Tim's name in the computer. Do you know when that was?

BARROWS: I'm assuming that was the 21st. The date, you know, for me to say definitely, but according to what, everything that's transpired, it would have been on the 21st.

SHELTON: About the 21st?

BARROWS: Yes.

SHELTON: And this is where Barbara gave you the incomplete filing folder or whatever it was, about the 21st?

BARROWS: This was when I came back to the work area and Barbara said she had filed Tim but it was on hold.

SHELTON: This was on the 21st?

BARROWS: The 21st of March or I'm assuming the 21st. I'm sorry.

SHELTON: Would you describe Barbara Campbell a truthful person, an honest person, a trusting person?

BARROWS: Well you know how to put somebody on the spot

don't you?

SHELTON: Just, I don't have anything else, so I'm just making notes up here so.

BARROWS: Okay. Up until this point in time, when I was working with her, I never had any mistrust or anything in her. I've seen things going on in the office that was not ethical. That I was concerned about from Barbara Campbell. Her honesty, I didn't question at that time. But since this has come out, I have questions of her honesty. Yes, sir.

SHELTON: Last question. Have you ever been harassed by either Mr. Kolb or Dr. Campbell?

BARROWS: No, sir. I haven't been harassed by either one of them.

SHELTON: That's all I have, Mr. Chairman. Thanks.

WITT: Representative Richardson.

RICHARDSON: Where do we start? Nadine, on the 21st, sometime during that day, you saw a Declaration of Candidacy on Tim Moriarty?

BARROWS: Briefly. Well, now, I saw a Declaration of Candidacy on the stack that was suppose to be, on the top part of what was suppose to be his filing papers. I did not read it or couldn't have identified it.

RICHARDSON: Did you identify it as having his name on it?

BARROWS: sir, I didn't identify any name on it. It was just on top of the stack of work of papers that supposed to be his filing

according to Barbara Campbell. His filing papers.

RICHARDSON: Okay. So the papers that Barbara Campbell showed you, had paper clipped together, and at the top of it you identified something that said Declaration of Candidacy. But that's as far down as you saw. Is that right?

BARROWS: I identified it from just a glance of the eyes, because you're handling those Declarations of Candidacy and when you see one you instantly know it's a Declaration of Candidacy. I did not read anything on that Declaration of Candidacy.

RICHARDSON: Okay. And you saw in the computer on the 21st the name Timothy Tim Moriarty. And it was in the computer?

BARROWS: His name, yes, his filing was in the computer on the 21st.

RICHARDSON: Now when you say in the computer, did you see it on the computer screen?

BARROWS: Yes, sir, I did.

RICHARDSON: At your desk?

BARROWS: At my desk.

RICHARDSON: There's more than one terminal right?

BARROWS: Yes. There, at that point of time I think it was just two terminals. When it first, when filing started, we had three terminals. One was in Ron Casteel's office. But I think it was like the second day or something of filing that started having problems so they just shut that one down and there was just the two terminals left.

RICHARDSON: And you understand that the matters that are presented to this committee and the things that are not presented to this committee are going to determine whether or not this lady faces at least one article of impeachment?

BARROWS: Yes, sir, I do.

RICHARDSON: And even knowing that you still prefer to protect yourself rather than tell the truth to this committee?

BARROWS: If you don't think that I haven't lost sleep over that you're mighty mistaken.

RICHARDSON: Well, I assume you have.

BARROWS: Yes, I have.

RICHARDSON: And I can appreciate that very much.

BARROWS: I hired legal counsel

RICHARDSON: I'm just wondering if you understand the magnitude of your not providing us with everything that you know.

BARROWS: Can I just have a minute. Sir, I have stated my position on it and I have to stand by the Fifth.

RICHARDSON: Let me take that just a little bit further. Did you talk to the prosecuting attorney, or his investigators, or to the Grand Jury, about these things that you're taking the Fifth on today, at some point prior today?

BARROWS: I talked to the prosecutor when I gave my sworn deposition. Prior, that

was on the 23rd of June.

RICHARDSON: Okay.

BARROWS: And I talked to the Grand Jury. I'm not sure of that date, but it was after that time.

RICHARDSON: Did you answer questions about the deletion from the computer before the Grand Jury?

BARROWS: At the time I answered questions to the Grand Jury, and to the Prosecutor's, I was stating the truth as I knew it, that my mind was bringing back at that time.

RICHARDSON: Did you on the 30th day of June, before the Grand Jury, answer the question about the computer deletion by saying, "Because at the end of that day, at the time, that day before we got, well we were getting ready to run the computer printout and Barbara said 'Now remember that I need to take Tim's name off the list because there is a hold on it'?"

BARROWS: Okay. Can you read me the question?

RICHARDSON: The question asked was, "Let's say that he did come in on the 21st and his, he has a Declaration that has the XM as the time on it. Why wouldn't his name printout on the 21st on the print out that he had filed that day." That was the question. Your response was, "Because at the end of that day, at the time, that day before we got, well we were getting ready to run the computer printout and Barbara said 'Now remember that I need to take Tim's name off that list because there is a hold on it.' I couldn't say she had typed and went through the procedure of typing

his name into the computer and everything and if it had not been deleted out of there it would have showed up on that list." - "So you deleted his name?" was the next question. "I don't know if I deleted it or if Barbara deleted it, but I know that it was discussed that his name needed to be deleted off that list until we were notified that he was going to run." Do you recall that?

BARROWS: With anything due the deletion I have to take the Fifth.

RICHARDSON: Mr. Chairman, with all due respect, I have some serious questions about this witness taking the Fifth Amendment on issues that she has previously testified to before the Grand Jury on, and take exception to that, and ask the committee to consider a resolution seeking a court order directing her to answer these questions. These are very crucial questions. In fact, this entire case turns on these questions. About whether or not there was a Declaration of Candidacy on the 21st. Whether or not Tim Moriarty signed it or not. Whether or not he was in the computer as a candidate and then subsequently deleted. I think this entire impeachment against Mrs. Moriarty turns on these issues. I think that the Fifth Amendment has been waived previously in Grand Jury testimony and before the Prosecutor. I think it's absolutely mandatory that we try to seek answers to these question. And if Mrs. Barrows is going to take the Fifth, which she believes she has a right to as does her attorney at this time, I think this issue needs to be resolved before we can go any further with this impeachment proceeding.

WITT: I'm going to direct this to your counsel.

SHELTON: Hold it. I'm gonna ask if her counsel would have a reply.

WITT: That's what I was just in the process of doing.

HENNON: I have not reviewed that transcript to which you are referring to the extent that you have. I don't know that she has directly testified to the question that was posed here today that she took the Fifth on. Generally, the subject matter was touched upon. I don't believe that she specifically has waived her, any objection that she had, I'm sorry, any privilege that she has in any testimony that she has previously given.

WITT: I believe Representative Richardson asked the question - "Do you recall making this statement in front of the Grand Jury?" And she choose to take the Fifth Amendment on that question of do you recall making, testifying in this manner. If she has testified to that, to those issues, it seems that the same questions and the same answers, at least to those answers, the privilege would be waived. Would it not?

HENNON: If we could take a short recess so that I could have some time to review that transcript and advise my client, I would ask the committee for time to do so.

WITT: Is there any objections to taking a, we could call another witness and allow him to review those portions of the transcript and the sworn statement?

RICHARDSON: I certainly have no objection as long as I can

reserve my right to ask several other questions that I have when she comes back.

WITT: Okay. Do, would you like to proceed with those other questions now or do you believe that it's going to be necessary to resolve this issue before you can ask those questions?

RICHARDSON: I think it's probably appropriate that we try to resolve this issue before we go on further because it's going to, definitely going to relate to some of the other questions that I have.

WITT: Okay. I have a couple of other questions that I'd like to ask before we call another, before we take that recess. I'll ask the staff if they can get a copy of that statement and her portions of the Grand Jury testimony. If there is a copy of those that we can provide to her counsel, so that they can review it. Back to a question. Are you aware of any other candidates who came to the office and filled out the paperwork or didn't come to the office but the paperwork was quote "held" or put aside and retained for a period of time before it was actually filed?

BARROWS: No, sir.

WITT: Was there any other candidate at all that occurred with?

BARROWS: Not to my knowledge.

WITT: Are you aware of any candidate that was filed at a time when the candidate was not present?

BARROWS: No, sir. Not to my knowledge.

WITT: Are you aware of any candidate that filled out the paperwork and for one reason or another was not filed directly at that time? That was put off for some period of time?

BARROWS: No. I don't recall any such.

WITT: Did you ever question why we were holding Tim Moriarty's paperwork and not filing it at that time?

BARROWS: No, because I hadn't initiated the filing. So I didn't feel like it was my situation to question.

WITT: But his name was on the computer on the 21st and even if you didn't delete it, it was then deleted and you were aware it was deleted. Didn't you question that at all?

BARROWS: In my own mind, your talking?

WITT: Both. In your own mind, and did you ever question anyone else about it?

BARROWS: No. I didn't question anyone else about it. But in my own mind, I wondered. I knew none of the others had been done that way.

WITT: When Tim's name appeared on the 21st but that, then the official record showed that he had actually filed on the 29th, did you question that at all?

BARROWS: On the 29th?

WITT: Right.

BARROWS: No, because when I come back she said he has filed. I didn't question whether he had to be there in person to file. I

really didn't know or worry about this filing because I hadn't initiated it. With coming back and saying Tim has filed I didn't know in my mind that he would have to appear again to file. Because I thought he had been there in the first place. Not knowing all the legal aspects of election procedures and being my first year, I really did not toil this over in my mind. Because I was not responsible for it.

WITT: We talked earlier about the computer program that had problems showing a time when anyone filed between the hours of twelve o'clock and one p.m.

BARROWS: Yes.

WITT: Did that problem ever get fixed?

BARROWS: No. I think that stayed all the way through the filing procedure.

WITT: Was there times when it would show the time if someone filed between twelve o'clock and one o'clock and other times that it wouldn't?

BARROWS: Well. I can't answer that a hundred percent. But to my knowledge if you put something in the computer between twelve and one you got an XM. That was our understanding of it. You can ask Hal Hebert, the computer guy.

WITT: We are going to be talking to him a little later.

BARROWS: He seems to understand that more than I do. But he's the one I called when it would show up each day I checked the list and he would come over and change it. But it stayed that way throughout the filing.

WITT: Okay. Was there ever a time in your practicing on the computer before hand, or during the filing, that a Declaration of Candidacy was printed out and instead of a date it had the words "Record Not Found?"

BARROWS: I don't remember seeing, when the Prosecutor showed me that over in their office when I went over to give my deposition, it's the first time like that came out and hit me. I don't know that I ever read that part. If I'd seen an XM, I didn't never look down at that bottom to see that it was showing up on the Candidacy thing, so I wasn't aware that it was throwing that off, too, when you see that XM. I wasn't aware that it was throwing that Candidacy off thing at the bottom. I just hadn't realized that.

WITT: Well the "Record Not Found" appears right next to the time. I mean it was right there next to it on that.

BARROWS: I think reason being that when you are filing somebody when you get that Declaration of Candidacy you are looking how their name is appearing on the ballot. And if you've made any mistakes there and I didn't, really most of the time didn't pay any attention I don't think to the date and stuff on it.

WITT: But you were looking at the XM's?

BARROWS: The XM's on the candidacy list I didn't look at until, I mean on the Declaration of Candidacy, until the Prosecutors pointed that out over in the corner. I knew that it was printing out on the list at the end of the day. When we printed out the Candidacy list

out of the computer we did a sort and the computer list came out. I knew that XM showed up on it, but I just didn't realize that XM was showing up on the Declaration of Candidacy that we'd given the people.

WITT: Okay. Did you give people the Declaration of Candidacy? If I were a candidate and came to the office to file, did I get a copy of the Declaration of Candidacy and you keep one, or how did that work?

BARROWS: That was pretty much up to the individual filing you. You would say to the individual out of common courtesy, if you had time. That was never done on the first days or the last part, the last afternoon because you didn't have time. If you had time, you offered to make a copy for them or if they said, "Could I have a copy of this?"

WITT: So there were some people who ended up with a copy of the Declaration of Candidacy?

BARROWS: There was, yeah.

WITT: Was there, when you're going through the computer to fill out the Declaration of Candidacy, when you got to the date how did that work? Did you type the date in every time?

BARROWS: Actually you're taking it off of the worksheet. And your Declaration of Candidacy actually shows up on your screen after you get all this information in.

WITT: Okay.

BARROWS: Your putting it on a, just a form that's on there. So your putting their name and all

that. But when you come to the date, I think you can hit the key F1, if I'm not mistaken, it's been a long time since filing. You could hit the F1 and it would automatically put the date in. The time had to be typed in.

WITT: Okay.

BARROWS: Okay.

WITT: If you put the F, okay you could either, could you also type the date in itself? Just type it in rather than hit the F1?

BARROWS: Yeah, I think you could type the date in, too. Hal could tell you that, because he's the one that set that program up, but I think you could type the date in.

WITT: If you didn't hit F1 or type the date and tried to print it out, do you know what happened? Did you ever see that occur?

BARROWS: No. I didn't.

WITT: Okay. Are there other questions that you want to ask before we have her attorney look over this?

SHELTON: Yeah. I have a couple. I was asking you about Ms. Campbell's ethics. Have you ever observed or noticed anything unethical or dishonest, specifically about Ms. Campbell?

BARROWS: When I made that statement I was making, regards to how, what she did behind people's back. In just, making fun of type thing, after they would turn or walk away. Or I can give you first some instances. I don't like to saying this, but I can tell you what I'm talking about it if that's what

you want me to do.

SHELTON: Yeah. I want you to tell me.

BARROWS: When Mr. Kolb would come over to the office and he would turn to walk down the hallway towards Judi Moriarty's office and have his back to Mrs. Campbell, she would literally stick out her tongue at him. When one of the other workers, I don't see any reason for naming this person, when one of the other workers would call in and she would have to take the telephone call, she would literally slam that telephone down on the receiver and put her finger in her mouth as if to gag herself, because she had to talk to him. When one of the other employees would walk by and proceed to go back to their work area, because they were somewhat on the heavy side, she got up and mocked their walk. Now this was stuff that I had a hard time, thinking that something wasn't going on here. It just is not right for somebody to do these things. I even went home and talked to my husband about it. But I was caught in a situation where, I had a dilemma, whether I go report this, that it's going on, or whether I just stay silent and just see what becomes of it. I chose to stay silent. But I knew something was going to happen in that office before too long because of the situation.

SHELTON: Okay. What about, have you noticed any unethical or dishonest behavior on the part of Judi Moriarty since she's been in office?

BARROWS: No, I have not witnessed that myself, sir.

SHELTON: Thank you. That's

all.

WITT: Representative Wible.

WIBLE: Are you under indictment?

BARROWS: No, sir. Oh sir, no ma'am, I'm sorry.

WIBLE: Are, is there any kind of criminal investigation that's focused on you that you are aware of?

BARROWS: No. Are you wanting me to explain why I got legal counsel?

WIBLE: No.

BARROWS: Okay.

GAW: I'm going to hold off. I want to wait until we're done with this.

WITT: So I have here two copies, one is the Grand Jury testimony and the other is the statement that she did. There's two copies of each one. The Grand Jury testimony starts on page 196. Her testimony actually started on page 195 but all that had was her name and how many years she's worked at the Secretary of States office. If you will come back and let me know. You can go back to hearing room 8 or one of the other hearing rooms and review those. We are going to take a five minute recess right now. (End of tape #6)

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WITT: Okay. We're going to come back into session. You will recall you are still under oath.

BARROWS: Yes, sir.

WITT: From earlier. You and your attorney have had a chance to review the testimony. I guess your attorney probably ought to speak at this point, but is your opinion that your client is going to take the Fifth Amendment on these questions?

HENNON: Yes.

WITT: And what are the grounds for that?

HENNON: That she is invoking her rights under the Fifth Amendment against self incrimination on these matters. And that there has not been a waiver of that privilege to this point.

WITT: If we ask the exact same question that was answered by her under oath in front of the Grand Jury or in the sworn statement to the investigator is it still your opinion that she has not waived the Fifth as to those issues?

HENNON: She was not asked the exact same question on the question that she responded that she was invoking her Fifth Amendment rights.

WITT: Is it going to be your position that if we do ask the exact same questions that were asked in front of the Grand Jury or by the investigator or under oath, the exact same questions that she will still invoke her Fifth Amendment rights to, under the answers of those question?

HENNON: On those matters, on that line of questioning she is going to take the Fifth Amendment.

WITT: Even if the same question that she has already answered under oath

HENNON: She is going to take the Fifth Amendment on that line of questioning. Yes.

WITT: On any questions that . . .

HENNON: Yes.

WITT: You are aware that this is not a criminal proceeding?

HENNON: Yes.

WITT: You're also aware that under the law in a civil proceeding that we have the right to infer that the answers that she would give when she has taken the Fifth Amendment would be detrimental to her?

HENNON: To her credibility?

WITT: Yes, to her credibility. And also that we can infer from that that the answer would be . . .

HENNON: I understand that.

WITT: And it's still your position that you're going to take your client, you're going to advise your client to take the Fifth Amendment?

HENNON: Yes, it is.

WITT: And, Mrs. Barrows, is it your position that you are going to take your attorney's advice and plead the Fifth Amendment on those questions?

BARROWS: Yes, sir.

WITT: Is there any committee member that has any additional questions that they want to ask at this time? Representative

Gaw.

GAW: Thank you, Mr. Chair. I want it on the record here today about what questions we're talking about, some of them anyway. Specifically, that were previously asked and answered by this witness. And so with the Chair's permission I'd like to read some of that previous testimony and ask the witness whether or not that was testimony that was previously given.

WITT: Proceed.

GAW: Ms. Barrows you gave a statement I believe on, if I can find this, June 23rd of 94 at the Prosecutor's office here in Cole County. Is that correct?

BARROWS: Yes, sir.

GAW: And I believe present at that time are Richard Lee, George Brooks, and Shelly Stuart. Do you recall that?

BARROWS: Yes, sir.

GAW: In that, at that particular time I believe there was a question asked - "Okay and your not sure which date it was?" Answer: "No I can't swear to you, because I didn't witness him there. I can't swear to you, but the reason I think that it must have been on that day they are saying that he was there because of later that day and do you want me to continue on?" Question: "Sure" Answer: "Later that day when we got ready to run out the list of candidates at the end of the day, before we ran the list, she stated quote 'I need to remove Tim's name from the list before we print it out' because I assumed that she hadn't gotten okay, whether he wanted to file or not or gotten

back with her. I think he had a couple of things to work out. I don't know if it was work or what, so his name was deleted. I can not tell you, in all honesty, if I did the deleting or if she did the deleting. It was done on my computer, but I don't know which one of us did it?" - Did you give that statement in answer to those questions on that day in June 23rd this year?

BARROWS: Yes.

GAW: And would you still give that statement today if that were asked of you in that fashion?

BARROWS: Now I would have to take the Fifth.

GAW: You would have to take the Fifth on what?

BARROWS: If you were to ask me that question.

GAW: So are you telling us today that your answer would be different than it was on this day?

BARROWS: I would have to take the Fifth on it.

GAW: You would have to take the Fifth on what?

BARROWS: On the question today.

GAW: That's not what I'm asking you.

BARROWS: On the the question today.

GAW: That was not my question. I want to know whether or not this statement is different than the one you would give today?

BARROWS: I would have to

take the Fifth on that.

GAW: The Fifth on my question?

BARROWS: Question of it would it be different or not.

GAW: You had no problem volunteering this statement on June 23rd. Is that correct?

BARROWS: That's correct.

GAW: Because there wasn't a specific question asked of you at that point in time about what you did or did not do in regard to the computer on June 23rd. Isn't that correct?

BARROWS: I thought you just read me a statement.

GAW: I certainly did, but I didn't hear any question in there that referred to what you did with that computer in deleting that material.

BARROWS: At that, the questions that was asked in that document at that time I was answering truthfully to. At that time.

GAW: So this statement is a truthful statement.

BARROWS: At that point in time it was what my mind remembered.

GAW: So you're saying that at that time this is what your mind remembers and now you remember something more? or less?

BARROWS: I take the Fifth.

GAW: You don't know whether you remember something less or more? You're taking the Fifth on that question?

HENNON: Yes, she is.

GAW: I would assume that means that you remembered something more then. In regard to. This was quote, this was June 23rd of this year. Is that correct?

BARROWS: Yes.

GAW: And sometime between June 23rd and now, you remember something different.

HENNON: That has not been her testimony. Her testimony is that she is going to take the Fifth Amendment on questions regarding the subject area at issue. And . . .

GAW: She's already stated Counsel, she's already stated that at that time this was a true statement. The only thing I have heard different and with regard to why she will not answer this question is because her memory is somehow different then it was then.

HENNON: That has not been her testimony.

GAW: I assume that the facts have not changed, because they were in the past both times.

HENNON: That has not been her testimony. You have made that jump, but that has not been testimony.

GAW: Well, I'd be glad for you to explain it to us if you would do that.

HENNON: There is no explanation . . .

GAW: Let me ask you this, Ms. Barrows, on when, you're still working at the Secretary of States office?

BARROWS: Yes, sir. I do.

GAW: You're here today taking the Fifth Amendment, which to me means that you've got something to hide about what you did that day, and you're still working there.

BARROWS: I am still working there and I've not been charged with anything.

GAW: You're still working at the Secretary of State's office, despite the fact that this line of questioning has something to do with what you did in that office in regard to documents filed in that office. Is that correct? Something which I would assume must have been illegal, for you to be taking the Fifth Amendment on it.

HENNON: You can make what ever assumptions you feel you need to make. She is taking, she has stated her position.

GAW: Can you tell me why you are still working in that office, if you violated the law while working in that office?

BARROWS: I didn't say that I violated the law.

GAW: If you had have violated the law, do you think it would be appropriate for you to remain in that office if the violation occurred as a result of misconduct that you committed in that office?

BARROWS: But that's not a proven statement.

GAW: Have you talked with the Secretary of State about your testimony here today?

BARROWS: No. I have not.

GAW: Have you talked with her about this incident?

BARROWS: No. I have not.

GAW: Never?

BARROWS: No. I have not.

GAW: In your Grand Jury testimony you were asked the question: "But at the time you don't know whether there was a Declaration of Candidacy among those papers." Answer: "No, I do not. I didn't witness what those papers was at all." Is that correct?

BARROWS: That's correct. At that point in time that was a true statement.

GAW: The statement that "I didn't witness what those papers was at all." That was a true statement at that time?

BARROWS: At that time. How my mind remembered it at that time. That was a true statement.

GAW: You were also asked the question "Okay and I wasn't clear if you said you simply didn't see a Declaration or you didn't see any of the papers." Answer: "I did not look at any of those papers. I was told that there was papers in the bottom of that drawer." Is that correct?

BARROWS: That's what my mind was remembering those papers, unfilled in that drawer just the top part of them like you would see in a filing drawer. At that point in time that's what my mind had retrieved.

GAW: Now you're saying that you remember more then that?

BARROWS: Later, I made it

clear. Yes.

GAW: Later, you made it clear what?

BARROWS: That I remembered one other area.

GAW: Even though at this time you state that you didn't witness those papers.

BARROWS: That's right. At that time I was remembering those papers in that filing drawer, just the top parts of them across the top. You would have had to sort through and separate them to identify what they was. I had not read or seen those papers, except a top edge that was among the other papers that was down there. You wouldn't have been able to identify the top edge of those papers from the other papers.

GAW: That's what you remembered at that time?

BARROWS: That's what I remembered at that time.

GAW: And now you remember more?

BURROW: Later, I remembered something more, and that's when I got legal counsel.

GAW: You got legal counsel because you remembered more, as I understand it.

BARROWS: Because . . .

GAW: That's what you just testified to.

BARROWS: Yes.

GAW: Is that true? You also stated on that date, I believe Ms. Barrows that, to the question: "It could have been the processing

that worksheet," "I know what should have been down there. You know, I know what the steps are for filing. And if they say there are papers in their and their on hold I know how many papers should have been there and what shouldn't have been there according to what the filing procedure is, but I didn't witness those papers themselves. I didn't never look at those papers to see what was on them." Did you make that statement?

BARROWS: Yes, I made that statement and I hadn't read the papers.

GAW: You also said, "I didn't never look at those papers to see what was on them."

BARROWS: At that time, yes, sir, that's what my mind had retrieved. Your mind is a funny thing, you know. It doesn't file in alphabetical order it. Something at the end of the day is happening so fast and when I, like three or four seconds of time, and I did not retrieve that information until later. And when I did, is when I got legal counsel.

GAW: What date did you get legal counsel?

BARROWS: I don't know. I honestly don't know.

HENNON: The question is protected by the attorney client privilege and I'll instruct my client not to answer.

GAW: Well, I'm not sure if it's protected anymore. She has stated that that's the reason why she did not, is choosing to change her story here, or at least to take the Fifth Amendment. And if she gives that for a

reason, I would think that we ought to be able to know the date. I'm not asking what the conversation was. I'm just asking when she procured legal counsel as a result of her statement.

HENNON: She didn't give a date. She simply, her testimony was that it was after a certain point in time.

GAW: It's also her justification for changing her story.

HENNON: You have made the assumption that she has changed her story. She has not.

GAW: Her story's certainly different then it was then, because then she wasn't taking the Fifth Amendment.

HENNON: It doesn't mean her, any story is any different.

GAW: If it's no different, then there is no reason for her to take the Fifth Amendment.

HENNON: Testimony is what it is and the privilege has been invoked.

GAW: You were in the copy room on the 21st, is that correct?

BARROWS: I'm assuming that that's where I was, because I remember a connection with coming back down the hallway towards my desk. Not coming back from outside hallway into the work area. But being within the office area and coming back towards my desk.

GAW: Is this where your memory has always placed you, Ms. Barrows?

BARROWS: At that . . .

GAW: In the copy room?

BARROWS: At that particular time, yes, sir.

GAW: No. I mean from that time to the present. Have you always thought you were in the copy room?

BARROWS: I'm not following your line of questioning.

GAW: Well, I'm not following some of your answers either, but what I want to know is during, since that time when this occurred have you always thought that during that time frame when Tim Moriarty was filing you were in the copy room on the 21st of March?

BARROWS: I connected in my memory coming back down that hallway and back to my work area so I'm assuming that was the area I was in.

GAW: And that's where you've always believed you were. Is that correct?

BARROWS: At that point in time. Yes. In my mind that's where I thought I was.

GAW: Okay. And, what I'm getting at is that's where you have always believed you were.

BARROWS: Yeah. I have not changed

GAW: That's what I'm getting at.

BARROWS: No that part has not changed. I'm sorry I didn't . . .

GAW: Well it's my fault I'm sure but I'm just trying to make it clear here where you think you were. Now there is, that is

where all the copy machines are I assume. In the copy room.

BARROWS: The copy machine and the fax machine is back there and all of our supplies.

GAW: That's the only copy machine there is in that office?

BARROWS: That's correct.

GAW: So if someone were making a copy of a Declaration of Candidate form they would have to go to that copy room wouldn't they?

BARROWS: Yes, sir.

GAW: Did you see Barbara Campbell in that copy room while you were back there?

BARROWS: That would be hard for me to answer. If you're at that copy machine and running copies there is another storage cabinet that comes out and there's just a walk way in between it and the copy machine. Two people can't pass it there. If you're at the copy machine doing a project during filing and somebody come around and had a copy of a Declaration of Candidacy that needed to be copied you just literally lifted out what you were doing, took it, run it through, lifted it out, and handed it back to them. They didn't barge by you and try to do it. You did it for them and handed it back. I could not tell you if that happened or not.

GAW: You don't remember whether she was back there or not?

BARROWS: Not on that specific day, sir. I just have no idea of how my mind would ever retrieve such a thing. I don't

know. I know that these, that procedure took place during filing. And if you were back there running the copy machine and somebody had a copy of the Candidacy thing to make a copy of, they just hand to you and you run it through the machine and handed it back.

GAW: You don't remember her being back there?

BARROWS: No, I don't.

GAW: And you don't recall whether there was, it's your recollection that the only time that you ever saw an XM filing was during the noon hour?

BARROWS: That's what, when talking to the computer man he explained to me was happening. That the XM showed up during twelve and one sometime.

GAW: But did you, do you recall it ever showing up at any other time frame?

BARROWS: No.

GAW: Yeah. And do you recall that "record not found" or "record not found" O, I think is how it is, ever showing up on any document? Other than the one you saw at the Prosecutor's office.

BARROWS: Not until I went in the Prosecutor's office. I just hadn't seen or my mind hadn't retrieved seeing that part. I really didn't realize at that point that when those XM's were showing up on that printed filing, that we posted out in the hallway, that it was, had come out on the Candidacy form that way. I just hadn't, I just hadn't noticed that it done that to the Candidacy form, too.

GAW: I believe that's all I have.

WITT: Okay. Was there a directive from a supervisor in your office that a deletion be made from the computer?

BARROWS: I have to take the Fifth on that.

WITT: Was there a request from anyone above you that you or anyone else in your office delete anything from the computer?

BARROWS: I have to take the Fifth on the deletion part.

WITT: I'm not asking whether or not it was deleted. I'm just asking if there was any directive from any supervisor or person above you for you or anyone else to delete it. Not whether it was deleted or not but was there that request?

BARROWS: I'm, still have to retain the Fifth.

WITT: Representative Richardson.

RICHARDSON: Did Judi Moriarty ever instruct you or anyone else in your presence to delete his name from the computer?

BARROWS: No, sir.

RICHARDSON: Did Judi Moriarty ever say anything or act in a way that led you to believe that she knew that it had been deleted?

BARROWS: Not in my presence.

RICHARDSON: Did Judi Moriarty ever say anything or act in such a way as to lead you to believe that Tim's papers were being held for filing later?

BARROWS: No. The conversation that went on relating to that was strictly between her and Barbara. I didn't have any conversation with Mrs. Moriarty on that filing.

RICHARDSON: You had, you were not privy to any conversation between Mrs. Moriarty and Mrs. Campbell on the subject?

BARROWS: No, I was not.

RICHARDSON: Previously, Mrs. Barrows, Barbara Campbell testified before this body that you and she decided together that on the 29th it was a good time to do what Secretary Moriarty had told her to do. Is that true?

BARROWS: No, sir. She did not confide with me on the 29th.

RICHARDSON: Okay. So if she said that the two of you participated together in the filing of Tim Moriarty on the 29th, then that would not be a true statement?

BARROWS: That's not a true statement.

RICHARDSON: She further testified that she walked over to the clock on the end of the table and timed it in at 1:19 then gave you the form and you entered it into the computer on the 29th. Is that a true statement?

BARROWS: That's not a true statement.

RICHARDSON: She also testified that a couple of times on the morning of the 29th you inquired of her, "Have you heard, do you know if Tim's coming in? Do you know if he's

decided to file? Do you think you should ask Judi about it?" Did any, were any of those comments made to you?

BARROWS: No. I told you I put the filing upside down on the desk. Told Barbara it was there. And left it up to her to handle.

RICHARDSON: And you were under the impression at that point in time that he was not a candidate?

BARROWS: That's correct.

RICHARDSON: If Judi Moriarty had instructed Barbara or anyone else to hold those, you were not aware it?

BARROWS: I'm sorry, would you say that again.

RICHARDSON: If Judi Moriarty had instructed Barbara or anyone else to hold his papers for filing, you were not aware it?

BARROWS: That's right. I only went by what Barbara Campbell had told me, that they were on hold.

RICHARDSON: At the time all of this was going on, was there unrest in the office between Barbara and Mr. Kolb?

BARROWS: Definitely.

RICHARDSON: Okay. So that's something that had been fermenting prior to the 21st of March?

BARROWS: Yes, sir.

RICHARDSON: How would you describe their relationship at that time?

BARROWS: You could definitely tell there was

problems between the two.

RICHARDSON: Okay. How would you describe those problems? What was the gist of the problem? Was it a personality difference? Was it a power struggle?

BARROWS: Power struggle is how I would describe it.

RICHARDSON: Was it between Barbara and Mr. Kolb? Or was it between Barbara's husband and Mr. Kolb?

BARROWS: Both.

RICHARDSON: Both of them?

BARROWS: Yes.

RICHARDSON: What was Barbara's relationship with Judi at that time?

BARROWS: It seemed good.

RICHARDSON: Do you know whether or not at that point in time Judi had been confronted with the problems between the parties?

BARROWS: No. I'm not aware of when that became apparent.

RICHARDSON: Okay. Were you ever privy to any comments or statements made by Mrs. Campbell or Dr. Campbell that if Judi didn't resolve the differences in their favor that they would "Take her down"?

BARROWS: I never witnessed that.

RICHARDSON: Were you at any time ever privy to any comments on Barbara's part that if Judi did not do something that the irregularities in Tim's filing would be exposed?

BARROWS: No. I wasn't witness to that either.

RICHARDSON: And let me ask you just one more time. Judi Moriarty never instructed you or anybody else in your presence to either file or unfile or to hold the filing of Tim Moriarty?

BARROWS: That's correct.

RICHARDSON: Was she present in the room at the time the events occurred that you've taken the Fifth on the evening of the 21st? Was she present?

BARROWS: Not to my knowledge.

RICHARDSON: At the time that these events occurred on the evening of the 21st was there anybody besides you and Barbara Campbell present?

BARROWS: Juli Haynes Rodenburg would have been in the office. She's the desk right behind mine.

RICHARDSON: Do you know whether or not she might have been privy to or overheard any conversations that took place?

BARROWS: I imagine that would be in the testimony you have from the trial because Juli was a witness or whatever you want to call it.

RICHARDSON: Did you ever talk to Juli about the events of the 21st, subsequent to the 21st?

BARROWS: Prior to the 21st?

RICHARDSON: Did you ever talk to her about what had happened on the 21st after the fact?

BARROWS: We've discussed it

slightly. Yes.

RICHARDSON: Do you believe that Barbara Campbell did something improper or unethical or illegal with regards to Tim Moriarty's Candidacy?

BARROWS: I can't make a legal conclusion to that.

RICHARDSON: Do you think that she did something that did not follow the prescribed procedure with regard to Tim?

BARROWS: Yes, sir.

RICHARDSON: Do you believe she did that with Judi Moriarty's knowledge and consent or direction?

BARROWS: That I have no way of knowing.

RICHARDSON: Did Barbara ever tell you that what she was doing was at Judi's request?

BARROWS: On signing the documents after the fact going over there I didn't hear her mention Judi's name. She just told me that she had to go over to Elections and file the documents.

RICHARDSON: Specifically with regard to the incidence or incidences that occurred on the 21st.

BARROWS: Okay. Your talking about . . .

RICHARDSON: Did she ever tell you that Judi had instructed her to do it or requested that she do what she had done?

BARROWS: Would you repeat that question one more time?

RICHARDSON: I'm not sure I

remember it. With regard to, we're talking about the 21st.

BARROWS: We're talking about the 21st.

RICHARDSON: The 21st only.

BARROWS: All right.

RICHARDSON: Barbara ever tell you that whatever occurred on that evening, that we're not going to be allowed to find out, at least at this point, did she ever tell that what was done or not done was done so or not done so at the request or with the knowledge of Judi Moriarty?

BARROWS: With the knowledge of Judith Moriarty telling her, no. I didn't witness anything in between those two.

RICHARDSON: Let me go to something else just for a minute. Nadine you were trained by Gene Wiseman on this system of filing. Is that right?

BARROWS: Actually, I kind of missed the training session. I had a death in the family and when I come back I think it was Hal, Juli, and Barbara that kind of showed me how to put the document in and do that. But I do think I missed the training session that evening if I remember right.

RICHARDSON: Juli and Barbara not Judi?

BARROWS: No, Juli, yeah.

RICHARDSON: Okay. Did Judi Moriarty ever participate in the actual hands on filing of any candidates?

BARROWS: Not to my knowledge.

RICHARDSON: Did she ever observe it going on at least while you were there participating in any of the training?

BARROWS: Oh, the training. No, sir. Not that I know of. But as I said, I wasn't there for the training session.

RICHARDSON: Right.

BARROWS: Yeah.

RICHARDSON: To your knowledge, did she have an understanding of the technical aspects of filing and what was required to file a candidate and what the procedure was that would be followed?

BARROWS: I never discussed it enough with her direct to know, one on one, whether I felt she had that knowledge or not.

RICHARDSON: If you or your attorney could secure the commitment of the Cole County Prosecutor not to prosecute you for anything that you said before us would that change your mind about taking the Fifth on these various important questions?

HENNON: Refuse to answer that question at this time.

RICHARDSON: Why does that not surprise me? That's all I have.

WITT: I've got a couple. Who is your supervisor currently? Your direct supervisor?

BURROWS: At, right now?

WITT: Right.

BURROWS: I think it to be Marie Gladbach,

WITT: Who was it in March?

BARROWS: Okay. Now I'm gonna answer that in two sections.

WITT: Okay.

BARROWS: Prior to Barbara Campbell coming aboard I thought it was Marie Gladbach. And I give my time sheets to her. Barbara had been aboard about two weeks and I was putting the time sheet on Marie's desk and she said, "What are you doing?" And I said, "I always turn my time sheets into Marie." She said, "That will not be done anymore. You will send them direct to Jim Kolb." From that point on I thought Barbara Campbell was my supervisor.

WITT: Okay. So either Marie or Barbara Campbell, or at least you believed Barbara Campbell was your supervisor at that time

BARROWS: Yes.

WITT: Who was her supervisor, direct supervisor?

BARROWS: Well, Judith Moriarty I would say.

WITT: Okay.

BARROWS: She answered to her.

WITT: Okay. Was she, did she report to Jim Kolb or did you report to Jim Kolb?

BARROWS: No, sir.

WITT: Was Jim Kolb in your chain of command?

BARROWS: I would suppose if . . .

WITT: To your knowledge.

BARROWS: Yeah, if you looked at the chain of command it would read that way, but since he was in another building he never led the chain of command in our office.

WITT: Okay. After the 29th of March, did you ever call Tim Moriarty to get his signature on the document?

BARROWS: No, sir.

WITT: Did you ever tell him his signature was not on the document?

BARROWS: No, sir.

WITT: Did you hear anyone else call Tim to tell him that he needed to sign the documents or that his name was not on the documents?

BARROWS: No. I didn't know about it until I come back on May the 11th.

WITT: Okay. Did you see Tim sign the documents?

BARROWS: No, sir.

WITT: In between the 29th and the time you were in the Prosecutor's Office did you see Tim Moriarty's Declaration of Candidacy?

BARROWS: Did not retrieve seeing it at that time. My mind had not remembered seeing it at that time. That came to me later.

WITT: Do you now recall seeing it?

BARROWS: Yes.

WITT: At what date did you see it?

BARROWS: That's where we get back to the date that I called legal, I could look that up for you possibly if that's really important but . . .

WITT: I think, was it after the 29th?

BARROWS: After the 29th of?

WITT: Yes, of March.

BARROWS: Yes. Yes.

WITT: So you saw his Declaration of Candidacy sometime between the 29th and March of May 11th?

BARROWS: No. I'm sorry, I didn't understand where you were going. I thought you were asking me after the 29th. Would you phrase that to me again? I am lost completely.

WITT: Okay. The 29th of March.

BARROWS: Yes.

WITT: The last day of closing.

BARROWS: Yes.

WITT: The filing closed.

BARROWS: Yes.

WITT: The last day of filing. Between that day and May 11th did you see Tim Moriarty's Declaration of Candidacy?

BARROWS: No. Now I'm following you.

WITT: Did you see his other paperwork?

BARROWS: After the 29th of March?

WITT: After the 29th.

BARROWS: No, sir. Not until I went to the Prosecutor's office.

WITT: Okay.

BARROWS: Okay. I'm sorry

WITT: You want to add?

BARROWS: Yes. I want to change that.

WITT: Okay.

BARROWS: I said I seen it at the Prosecutor's office. However, there was a press conference in our office on June the 22nd. After that press conference, someone brought out some copies of the Declaration of Candidacy and his receipts and placed them upside down on the corner of my desk for press to take. That wasn't so I could read it or see, but that's what was placed there.

WITT: So was there a stack of them?

BARROWS: Yes. There was several put there and I think press took them. Where they come from, or who originated them, I don't know. And then the next day is when I went to the Prosecutor's office. That's all in a day's time. When I went to the Prosecutor's office, they showed me the Declaration of Candidacy to go over.

WITT: Just one second, if you would please. I think that is all I have. Do, is there any, Representative Gaw.

GAW: Thank you, Mr. Chair. Nadine earlier you testified that you did not have anything to do with the filing of Tim on the 29th, I believe. Is that correct?

BARROWS: That's correct.

GAW: And I want to clear something up. Maybe this is something that I'm just misreading in your Grand Jury testimony. I'm going to read you these responses and tell me if this is referring to something different or if it's the same thing. It's a question - I'm sorry, so that was in?

HENNON: We have a copy. Could you please . . . ?

GAW: Yeah, it is. It's on page 211 and 212 and part of 213. On the very bottom of page 211 were it picks up. Question: "I'm sorry, so that was in response I guess did you ever look at the papers." I'm having to read on the other side of the staples. Answer: "No. I never remembered seeing, laying eyes on Tim's filing until, I told you up, to the point where it was put on the corner of my desk upside down." Question: "That was a press conference in June. I'm still in March." Answer: "In March, no, I did not read those papers." Question: "Okay. Did you help Barbara prepare or punch the button to type up that Declaration?" Answer: "I did not. If I did I did not know that I had been handed Tim Moriarty's document to punch up. It would have been, I'm assuming they would refer to putting it in the time clock. Sometimes when you are, were standing over by time clock and putting somebody else's paper in whoever was sitting at the desk instead of coming up and going over to that particular, saying will you put this in you would put another one in and hand it back. If I did that I was not consciously aware that I did Tim Moriarty's filing." Is that an accurate statement?

BARROWS: Yes, sir.

GAW: Okay. Now when Representative Richardson was asking you earlier about your knowledge of Judi's awareness of Tim's filing on the 21st, I was unclear about why it took so much time to answer that question. Do you know something that you would like to share with the committee about Judi's knowledge or lack of knowledge in regard to Tim's filing that resulted in all of the time delay in answering his question?

BARROWS: That's the one I come back and had you repeat the question on? And you added Judith. I have no knowledge of Judith Moriarty knowing anything, about and that's what I stated to him.

GAW: You have no first hand knowledge or you have no knowledge period?

BARROWS: No. I have no knowledge on Judith period.

GAW: No knowledge period. Not just first hand knowledge, but you've never heard it discussed?

BARROWS: Judith K. Moriarty knowing about something being done that wasn't right with Tim's filing. Wasn't that the question you put to me?

RICHARDSON: That was the question I put to you, but I think Representative Gaw is repeating the question.

GAW: Yeah. I'm just asking if there is some reason why it took so long to answer that question that you would like to share with this committee as far as, because we're trying to figure out the truth of this case. And I think it would help us, rather than us

trying to ferret out each little question that would derive answer, if you could share the information with us if you feel it has merit.

HENNON: I'll state that it wasn't her that was delaying answering the question. I was making sure that I understood the question before she answered the question as to who had knowledge of what. (End of tape #7) I was clarifying an answer with her. I was the one who wanted to make sure she answered that question.

GAW: That's fine. Now, let me ask you this. The office where you work is still the same, right? You still work in the same location?

BARROWS: Yes, sir.

GAW: And who else works in that office? About how many people? In that particular area?

BARROWS: Okay. Juli Haynes Rodenburg sits at the desk behind me. There is an office off to the side of that that's Marie Gladbach's. And there is another office there that is, well, Greg Kindle, acting Press Person, he's sitting in that office right now. Then as you proceed down the little hallway going back to Judi's office there is Carolyn Smith. And then as you proceed on there's Freda McKee, Judi's secretary. And then there's Judi's office.

GAW: In back in the later part of March, would there have been any differences as to who is in that particular location?

BARROWS: The only differences would have been that Barbara was there at that time and floating in between the

desks and using the work stations.

GAW: Was Mr. Kindle there also?

BARROWS: Mr. Kindle was not there at that time. He was over in the Elections Division.

GAW: Was there anyone else there that would have been in his place or someone else there that would be in that particular area at the time?

BARROWS: We had an employee, Ron Casteel. But I think when filing started Ron had already, yeah, he was already gone from the office.

GAW: Okay. So that's the list. Is that . . .

BARROWS: Well, Mr. Campbell would have been . . .

GAW: Mr. Campbell would have been there.

BARROWS: Yeah.

GAW: So he also worked in that same area?

BARROWS: Yes.

GAW: Okay.

BARROWS: His would have been where Greg Kindle, where I quoted Greg Kindle being now. That would have been Charles Campbell's office.

GAW: Yeah. On the 21st of March do you ever remember Judi Moriarty or Tim Moriarty or Barbara Campbell or anyone in the office talking about celebrating Tim's filing on that date?

BARROWS: Nope. I don't.

GAW: And you worked a full day that day?

BARROWS: I worked a full day that day. I just remember coming back and being told it was on hold.

GAW: Okay. But you don't recall any celebrating going on about Tim's filing?

BARROWS: No, sir.

GAW: Did you happen to leave or anything that afternoon to your knowledge?

BARROWS: Well you've got to remember the legislature was in session.

GAW: Right. I know that's a terror sometimes.

BARROWS: And we do, I do take care of the packets for the Legislators, the educational packets. And a lot of times, if we will get a call like they just need 50 or so. Usually we have those delivered twice a week, Tuesdays and Thursday, but if they get desperate in between time and they've got a school coming in right quick or something we might run some of those down to somebody's office, not run, but take them down to somebody's office and come back. It's feasible I could have been out of the office on something like that and come back in. That happens often during a legislative session.

GAW: Okay. But you don't recall any kind of celebration or discussion about Tim's filing that day or having filed on that day?

BARROWS: No. Only that he was on hold.

GAW: And Judi's office is, where do you sit in regard to Judi's office?

BARROWS: Okay. You would come in the door and directly to the left is my desk.

GAW: How many doors are there entering?

BARROWS: Entering off of the hallway?

GAW: Yes.

BARROWS: The outer hallway?

GAW: Yes.

BARROWS: Actually there is three but only that one in front of my desk is used.

GAW: Okay.

BARROWS: Unless, Judi has a door in her office that she could exit and go down the hallway if she wanted to. And there is another door

GAW: Is that door locked from the outside?

BARROWS: Well you know, I can't answer that. I don't know.

GAW: Okay. But it's not a commonly used entrance?

BARROWS: I think it probably is locked.

GAW: Yeah.

BARROWS: No. It's not a commonly used. I think the only time we use it is if we've got a school group coming in one door and we take them out the other door

GAW: Okay.

BARROWS: type thing.

GAW: So usually they come by your desk if somebody's coming in or out?

BARROWS: Yes. Pretty much.

GAW: And then where is Judi's office from where you sit?

BARROWS: Okay. You come in, mine's to the left. If you proceeded straight on you could only walk a few steps and you would have to take a right and go down a hallway.

GAW: Okay.

BARROWS: A small hallway. Then you would come to another opening and that's where her secretary sits. And then you would go through another door just to the left a little and straight back through and that's Judi's office.

GAW: Is she normally there on a daily basis? Was she there on a daily basis in the latter part of March?

BARROWS: That is very, very hard for me to answer, due to her schedule.

GAW: Okay. Sometimes she was out of the office?

BARROWS: That's true.

GAW: And during that time frame, the posting for filings is right outside of that door. Is that correct?

BARROWS: Okay. Your talking about the time clock?

GAW: Well, the posting for the filings. Maybe we're talking about the same thing. It's right out

BARROWS: I think so. It's, after they do the worksheet and you've got their money, the next step is the posting of the time

GAW: All right.

BARROWS: Or putting it in the time clock and getting the time stamped on it. That due to not having any plug in on my desk or the other desk in the office, we set that time clock on a stand table just to the right as you come in. There is a settee there and a stand table and we had that time clock sitting on that stand table.

GAW: Okay. What I'm really looking for though are the posting for filing outside of the office. The paper, the computer printout

BARROWS: Oh, that we put on the bulletin board outside?

GAW: Yeah.

BARROWS: That's done outside in the hallway.

GAW: Right. And that's outside of which door?

BARROWS: That's outside of my door.

GAW: The one that people go in and out of?

BARROWS: Yes.

GAW: All right.

BARROWS: Now I'm following your conversation.

GAW: Yep. Okay. And that's done on a daily basis, that posting?

BARROWS: Yes, it is.

GAW: When, during filings?

BARROWS: During filing. We try to keep it updated as much as possible, but it's usually not done over twice a day.

GAW: Who would normally have been responsible for putting that up and taking it down?

BARROWS: Most of the time myself or Juli. Barbara might have done it a time or two, but not very often.

GAW: All right. Did you ever see Tim Moriarty's name as being filed prior to the 29th of March?

BARROWS: Not prior to.

GAW: On that sheet?

BARROWS: Not prior to the 29th, I didn't.

GAW: All right. And did you ever have any conversation in the office with Judi Moriarty saying that Tim had filed prior to the 29th of March?

BARROWS: No. I just had the conversation with Barbara that it had been put on hold.

GAW: All right. But you never heard Judi mentioning anything in the office about it?

BARROWS: No.

GAW: About him having filed?

BARROWS: After Barbara come aboard, I really didn't have one on one contact with Judi that much, because everything went through Barbara Campbell. If you typed letters and you had letters to be signed, they went in a folder, they went to Barbara's

desk, and Barbara took them in. She was the one going back and forth between Judi and us.

GAW: You didn't have any conversation with Judi then during, after Barbara came?

BARROWS: Well, only in coming in and going out. I would not be back in her office taking work back like I did prior.

GAW: Right. Did she ever come out and visit with the workers out there?

BARROWS: Not on, not any length of time.

GAW: She wouldn't visit with you?

BARROWS: During session you're so busy, if she was out there somebody stopping by to say hello or something you just, it's just active. She didn't normally come out and sit down and visit with you. No.

GAW: But she would come through that area?

BARROWS: She had to, she normally came through that way to go to her office.

GAW: All right. So when she would come through that way she would walk by the filings that were outside the door?

BARROWS: The ones in the hallway, listed in the hallway?

GAW: Yes.

BARROWS: Yes.

GAW: I think that's all I have.

WITT: Representative Shelton.

SHELTON: I have a couple of

questions. Would you consider yourself and Barbara friends?

BARROWS: We had a good working relationship when we were in there. We had no problems between one another.

SHELTON: Okay. Do you have any concerns for Ms. Moriarty's future as related to this impeachment hearing?

BARROWS: Do you mean do I feel a burden that I need to carry for her or something. Is that what saying?

SHELTON: No. I mean she's your boss and she's facing impeachment. Do you have any affection for her, any feeling?

BARROWS: I am just like this panel here. I don't know the whole truth on it. And I'm just awaiting to see the outcome myself.

SHELTON: Well, maybe if you'd answer some of the attorney's answers, we'd all know the truth. When did Barbara tell you that Tim had filed? Was that on the 21st or the 29th?

BARROWS: The first time I heard it from Barbara was on the 21st that she had filed him, but he was on hold.

SHELTON: She had filed him?

BARROWS: She had filed him, but his paperwork was hold in the bottom drawer.

SHELTON: Well, you couldn't have filed him if he hadn't completed the paperwork. Maybe she was just using that language, maybe.

BARROWS: I'm only telling you what she said to me.

SHELTON: Okay. And what did she say to you on the 29th?

BARROWS: On the 29th?

SHELTON: Yes.

BARROWS: When I came back to my work area and I think it was from lunch, because I remember putting my purse down on the desk, she said that "By the way Tim Moriarty is filed."

SHELTON: What did, what was your response?

BARROWS: I took it Tim Moriarty was filed. I didn't have any questions about it. That was a busy day.

SHELTON: You didn't see him on the 21st?

BARROWS: I didn't see him on the 21st.

SHELTON: Or the 29th?

BARROWS: That's correct, sir.

SHELTON: Who did you take directions from in the office?

BARROWS: Actually anybody that gave them. I felt like Barbara was my supervisor. She pretty much laid out the work that was to be done and what wasn't to be done and things went through her. I also do work for Carolyn Smith, the legislative person. I would have done work for Mr. Campbell. And I do work for Marie too. So I just really am there and I work for each one. If they've got something, they come and bring it and put it on the desk.

SHELTON: But usually Barbara, you looked to Barbara as your immediate supervisor.

She would mostly give you your work? Your assignments?

BARROWS: She would give me letters, yeah, that she would want done.

SHELTON: Did she order you to delete Tim's name from the computer?

BARROWS: I have to take the Fifth Amendment.

SHELTON: Thank you. That's all.

WITT: Tim Moriarty was running in, I believe, it was the 56th district. Were you aware of that?

BARROWS: I am now. I wasn't at the time.

WITT: Okay. Were you aware of anyone else filed for State Representative in the 56th district?

BARROWS: I think there was some other filings, but if you asked me their names I wouldn't know who they were.

WITT: Now there was another person filed in the Democratic primary that filed prior to the 21st, and then on the 29th of March at 12:01 there was Bob Keith that filed in the Democratic, no I guess it was the Republican primary, were you aware of that in this 56th district?

BARROWS: It doesn't, I was not knowingly aware but I mean it didn't....

WITT: Okay.

BARROWS: No. Not at that time and even now I wasn't aware of it.

WITT: Are you aware that some candidates like to attempt to be the last person to file, if there's somebody already filed, to be the last one on the ballot because they believe it brings some advantage or disadvantage?

BARROWS: I've always heard that.

WITT: Okay. And are you aware that when Judi Moriarty herself when she filed for Secretary of State waited until five p.m. on the last day of filing to file for office to be sure that she was the last one filed?

BARROWS: I wasn't aware of it.

WITT: Do you think it's possible that Tim Moriarty wanted to hold his paperwork and not file it until late on the 29th in order to be the last person on the ballot?

BARROWS: I suppose that's always a possibility.

WITT: But you didn't have any discussions or ever hear that discussed in the office?

BARROWS: No. I knew it was on hold down there.

WITT: Okay. They never discussed, no one ever discussed with you the reason why it was on hold?

BARROWS: Nope. She didn't give me a reason why it was on hold.

WITT: Okay.

BARROWS: And no one else gave you a reason why it was on hold?

WITT: No.

WITT: I don't think that I have anything else. Representative Wible.

WIBLE: To your knowledge, who besides you and Barbara Campbell knew that the paperwork was on hold?

BARROWS: I don't know if she told anybody else or not. You would have to ask her that.

WIBLE: To your knowledge.

BARROWS: I know that, yeah the two of us, but I don't know . . .

WIBLE: When Representative Richardson was asking you some questions earlier there was something you said that confused me a little. I think I heard you say that the conversation that went on regarding the holding the papers was just between Judi and Barbara Campbell. Did I hear you say that?

BARROWS: Well, if I did I was probably trying to mean that anything that pertained to that filing, I don't have first hand knowledge of. It would have had to been between whoever initiated it and who ever done the filing.

WIBLE: Between whoever initiated it and?

BARROWS: Well, whoever Barbara worked with to do the filing. It would be Tim or whoever done it. I don't, I didn't have knowledge of the filing myself. I didn't do it. I just knew it had been put on hold.

WIBLE: Did you have some reason to believe it was other than Tim Moriarty that initiated the filing?

BARROWS: No, ma'am, I didn't or I don't have.

WIBLE: And it appeared to me in some of your answers that you were distinguishing between Judi Moriarty, emphasizing the Judi and the Judith K. and perhaps some other Moriarty. Were you making a distinction in your answers that you did not know anything about Judith K.

BARROWS: Not between Moriartys, no.

WIBLE: Thank you.

WITT: I believe that's all we have at this time. I would like to have you be available in case there's a reason for us to recall you. I don't think there will be at this point. I wish that you would have been able to come forth and tell us full answers to all of the questions. I think that is important to the outcome of this hearing and important to Judi Moriarty and for her to have a full and fair hearing here today. I am sorry that you feel the need to hide behind the Fifth Amendment but . . .

HENNON: Excuse me, to invoke her rights under the Fifth Amendment.

WITT: In as we can under the law, we will draw the inferences that we can by you invoking your Fifth Amendment right. Thank you.

BARROWS: Thank you.

WITT: I believe at this time we're going take five minutes. (End of tape #8)

WITT: Mr. Brown will you raise your right hand? Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

SHELLY BROWN: I do.

WITT: Please state your name and address for the record.

BROWN: My name is Shelly Brown. My address is 478 Maple Road, Lake Ozark, Missouri.

WITT: Okay. And what is your occupation Mr. Brown?

BROWN: I'm the Administrative Assistant to the Director of Elections.

WITT: And how long have you held that position?

BROWN: Since June of 1993.

WITT: Okay. So you since June of 1993 have been working directly with the Elections here in the state of Missouri. Is that correct?

BROWN: That is correct.

WITT: What was your, what are your job duties as far as the filing of candidates and operating of elections?

BROWN: I was not directly involved with the filing process as far as when people came into our Capitol office actually getting their paperwork filed. I was not involved in that.

WITT: Okay. Your office is over in the Information Center then?

BROWN: That's correct.

WITT: Okay. What was, what were your job duties as far as the paperwork that was filed here in the Capitol office? Do you have any responsibility as to checking that or proof reading it or otherwise?

BROWN: Basically no. After the first few days of the filing period began, I was responsible for collecting the paperwork from the Capitol office, bringing it back over to the Information Center in the evenings, so we could update our computer records in the evening. That basically was the extent of my handling the paperwork, as far as filings for candidates.

WITT: Okay. So you just came over here picked it up, took it back over there. Did you do anything with it once it got back over there?

BROWN: No, I did not. Not directly.

WITT: Okay. At what point did you first become aware that Tim Moriarty had filed for office or was attempting to file for office?

BROWN: I had been made aware of it on the last day of the filing period.

WITT: Okay. And how did you become aware of it on that day?

BROWN: I, like I just got through telling you, I was responsible for going over in the evenings to pick up paperwork. I had gone over on the last day to transmit some documents going on with an unrelated matter. I was there, I was asked by a person in the hall if Tim Moriarty did get an opportunity to file for office. That is when I

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first became aware it. I did not know prior to that that he was interested in pursuing it.

WITT: Okay. Did you pick up the paperwork that day to take back over to the Information Center?

BROWN: No, I did not.

WITT: Okay. Did you ever see Tim Moriarty's Declaration of Candidacy or his other paperwork?

BROWN: Prior to the fact becoming aware to the public? No, I did not.

WITT: Okay. When did you first find out there may have been a problem with Tim Moriarty's filing?

BROWN: June 14th.

WITT: Okay. And what happened on that day?

BROWN: That is the day that Mr. Campbell made his resignation known publicly and also that there was a problem with the paperwork. Because up until that point in time he had been considered a filed candidate and was working towards his campaign for office. So that is the first time I knew there was a clerical problem or something had been omitted or there was a problem with his paperwork.

WITT: Okay. So on June 14th you became aware there was some problem. Did you at that time look at the documents or pull the documents or see the documents?

BROWN: No, I did not get an opportunity to.

WITT: Okay. Did you take any

action in response to the fact that . . .

BROWN: I, initially, no, I did not. The extent of my, through the course of my duties in the Election Divisions, I was responsible for taking the information that we had of all the candidates who had filed for office, contacting local election authority, send them a verification list that these are the candidates we have filed in your county, will you please verify that they are registered voters, they do meet the requirements for Representatives, Senators, whatever case they may have been running for. At that point in time when I did that for Jackson County that is when first came in contact with Tim Moriarty's filing.

WITT: Okay. What time was that?

BROWN: That was, would be sometime probably April to May and at that point in time I did not know there was a problem with his paperwork.

WITT: Okay. How, what, were, did you get the information to send to the clerks?

BROWN: We have a computer generated printout. I was just going right down the list where all the Democrats, Republicans, Libertarians, who had filed, break those down into county, and then basically collect all the counties, send them out to the Election authorities.

WITT: After, I guess, in April or May did you ever see Tim Moriarty come to the Information Center to sign the Declaration of Candidacy?

BROWN: No. I did not.

WITT: Did you hear that he had come to the Declaration, to the Information Center to sign the Declaration of Candidacy?

BROWN: No. I did not.

WITT: Did you see Barbara Campbell come to the Information Center to sign Tim Moriarty's Declaration of Candidacy?

BROWN: If she did, I did not know she was coming to sign the paperwork. She, just like other employees from the Capitol office, from time to time, do come over. It's not that frequent, but at that time her husband, Charles Campbell, was working over in the Capitol, or excuse me in the Information Center. So I may not have known that that was what she was coming to do.

WITT: Okay.

BROWN: I may have seen her there on that day that she signed but I didn't know that she was there to sign the paperwork.

WITT: Did you call Tim Moriarty to tell him that he needed to come and sign the paperwork?

BROWN: No. I did not.

WITT: Did you have any conversations with Tim Moriarty regarding his signature being on or not being on the paperwork?

BROWN: No. I have not.

WITT: Have you heard anyone else in your office or in the Secretary of State's office indicate that they called Tim Moriarty to have him come sign the paperwork?

BROWN: No. I have not.

WITT: Have you talked to anybody who saw Tim come to the Secretary of State's office to sign the paperwork?

BROWN: No. I have not.

WITT: I think that's all I have. Is there any other committee members have any questions? Representative Gaw.

GAW: Just to follow up on what you said, Mr. Chairman. Shelly were you there when Tim Moriarty signed that Declaration of Candidacy?

BROWN: No. I was not.

GAW: Now you're familiar with the area where these files are kept over there, I assume?

BROWN: Yes, I am.

GAW: Is that correct?

BROWN: They are kept in our division, yes.

GAW: Where does your office sit in regard to those files?

BROWN: We are a division, but we are not in a separate office area of the Information Center. There are three offices and a large cubical area for our clerical staff. Mr. Carroll has an office. Mr. Wiseman has an office. And I have the next office. Directly across the hall from Mr. Carroll's office is our store room, where we were keeping the Declarations.

GAW: Can you see that store room from your office?

BROWN: No. I can not.

GAW: What, were you aware of

any individuals other than yourself and the other, I guess it be three people that work in Elections that had access to these Declaration of Candidacy filings in that room?

BROWN: During the course of the day, no, I am not. I am not aware, I do not recollect when I would leave in the evening if I had seen if the store room was closed and locked. The door does lock when you close it. Now I don't recall either seeing it open or closed. I really didn't pay that much attention to it.

GAW: That wasn't your responsibility?

BROWN: No. That was not my responsibility.

GAW: Are you aware if there was someone responsible for that?

BROWN: For the maintenance or the safe guarding of the paperwork?

GAW: Yes.

BROWN: It had not been lined out to me or one of your duties before you leave to go home at night is to be sure that the paperwork is squared away. Usually, when I would come back from the Capitol office to bring any current filings for that particular day, Mr. Wiseman and Mr. Carroll were still there. I would, I guess, courier the package back over. It came in a great big inter-agency envelope and I would bring it back to them and deliver it. And we'd chat for maybe a minute or two, and then I'd leave. And those two would still be there working.

GAW: So that was one of the if not the last function that you did

in a day during filing season?

BROWN: That is correct.

GAW: Now, did you, it's my understanding that you testified just a little earlier here that you first became aware at this press conference, on June the 14th, about this problem with Tim's filing?

BROWN: That is correct. Up until that point in time I did not know that there was a problem. And I also had been under the assumption that he was a candidate in good standing just like everyone else who had filed, that we had not notified for one reason or another that they were not eligible for office.

GAW: Was it a surprise to you when you learned on the 14th then that he was not a properly filed candidate?

BROWN: Yes. I was not aware of it, so it did, you know, surprise me. I guess you would say, yes.

GAW: Did it, you did not hear any conversation in the Election Division over there regarding problems with Tim's filing prior to June the 14th?

BROWN: No. The first time I was even asked did I see him come to our office to sign any paperwork was a few days afterward. In one of her visits to the building Secretary Moriarty asked me did I see Tim come over to our division and sign paperwork. And I told her at that point in time that no, I did not. Mr. Carroll had given a document to our staff after the incident had been aware publicly, that candidate filings took place in the Capitol office. We here in the Elections

Division in the Information Center, don't have any knowledge of that. And he instructed me, if I were to be asked by a member of the press, that was the response I was to give. And I told Ms. Moriarty at that time that, no, I had not seen him, you know. I did not take place in the activities over in the Capitol. And she said, "No, he would have come over here to sign it." And I said, "No, I did not see him sign the paperwork here." I did not even know he was coming to sign the paperwork.

GAW: Was that the extent of that conversation?

BROWN: Basically, yes.

GAW: Was that, and that was a conversation that she initiated?

BROWN: Yes. She was over in our division area. I would say it was within a week after Mr. Campbell's resignation was made public and this was one of the points he had brought up. She had asked me about did I see Tim come over? Did I have any knowledge of him coming to sign the paperwork in the Election Division?

GAW: If I'm understanding you correctly, you had, previous to that conversation with the Secretary of State, had some communication with Joe Carroll about questions from the press and where filings would have taken place. Is that correct?

BROWN: That is correct.

GAW: Do you recall when that conversation took place?

BROWN: I would have to check my notes and let you know. I . .

GAW: Did you keep notes of that?

BROWN: Yes. I did.

GAW: Do you normally keep notes of daily activities?

BROWN: Well, when I first became aware of something of this magnitude, I felt that as far as my involvement in any thing in the near future, I think it would be a good idea if I were to keep some kind of record. Even though I did not have knowledge of what was going on, and certainly at that point in time. You know the Elections Division, we're a small staff. So certainly, whether I knew something about exactly what went on to make the first incident become aware to the public, I would need to have something to refer back to. Yes.

GAW: Sure. And are those notes fairly extensive?

BROWN: No. Just some notes that I had made to myself, you know, if I needed to refer back to them, they would refresh my memory. On this date Secretary Moriarty asked me had I seen Tim come. It's nothing, it's not a journal that I kept. It's just something I made a note of myself.

GAW: Did you have any other conversations with the Secretary of State about this matter?

BROWN: No. I did not.

GAW: All right. Have you had any other conversation with Joe Carroll about this matter?

BROWN: No. I have not.

GAW: Not at all?

BROWN: No. I have not.

GAW: How about with Gene Wiseman?

BROWN: No. I have not.

GAW: Okay. But the conversation with Joe Carroll was that . . .

BROWN: It really wasn't a conversation it was . . .

GAW: Okay. You go ahead and explain.

BROWN: It was a letter when I came to work on, I'd have to like I said look back at my note, it really wasn't even a letter, it wasn't a memo, it was something that Gene Wiseman had told me that Joe had prepared. And if we were asked about this particular situation he told me it would quote to take, "It would take the pressure of the situation in responding to questions from the media" that would call in and ask about the discrepancy with Tim's filing.

GAW: All right. Do you still have a copy of that memo?

BROWN: Yes. I do. I'd have to get it.

GAW: Do we have a copy of it?

WITT: I don't believe so.

GAW: Would it be a problem for you to produce it for us?

BROWN: I could do that. I also when I was questioned about this through the Prosecuting Attorney's office, they asked for a copy of it also.

GAW: So do you think they'd have it in their files also?

BROWN: They might have it in their files also. It might be a little bit more accessible than mine would be.

GAW: Okay.

BROWN: But it is basically a four or five line statement and I then I followed up after that any interaction that I had had in the following days, in my own handwriting, with what had gone on. How it was presented to me. What was told to me. And then my conversation with Secretary Moriarty regarding this situation.

GAW: All right. Did, Gene Wiseman then gave you some explanation about the reason for the memo?

BROWN: Right. I had not at that point in time, and basically that whole conversation took all of two minutes to take place, and that has been the extent of my interaction with Mr. Wiseman and Mr. Carroll regarding this problem with the filing. And that's been, that was back in mid to late June.

GAW: All right. And you were, and that was, again, June 14th was the first time that you were aware of this problem with the filing?

BROWN: That is correct.

GAW: And the only, there is only one other individual that I believe that works in your office. Is that correct? Or worked in the office at that time.

BROWN: Well, we had a . . .

GAW: It's Margaret Freeman?

BROWN: Margaret Freeman and we also had a summer

intern from the University of Missouri.

GAW: What was, who was that by the way?

BROWN: His name was Duffy Syda.

GAW: And what were his responsibilities while he was there?

BROWN: Light clerical work. He also assisted on the first day of filing. He went to the Capitol office. Mr. Wiseman, Mr. Carroll, and Margaret Freeman and Duffy went to the office. I was left in the Information Center to stay behind.

GAW: Okay.

BROWN: And periodically he would go over. I think even, as memory serves, he might have been there on the last day of filing. I do recall when I went over the last day of candidate filing that I left approximately at about ten minutes to five. There was no one left in the Division because the other staff was in the Capitol office. So I believe also at that time Duffy may have been there on the last day. I don't really clearly recall.

GAW: All right. You've never had any conversation with Tim Moriarty about this incident?

BROWN: No. I have not.

GAW: And you'd never saw him come over to the Information Center to sign this Declaration of Candidacy form?

BROWN: No. I have not.

GAW: That's all I have.

WITT: I have a follow up. I was

looking back over your sworn statement that you gave to Cole County when they were doing the investigation. In that it asks if, you were asked if you were privy to any conversation between Joe Carroll and Gene Wiseman concerning when they found the document and found the signatures were missing, that kind of thing and you said, "No. No, I wasn't. But I have theory in mind." I don't know if there was any backing to your theory or what your theory may be about that document or even if you recall what you were thinking of at that time. I was just interested.

BROWN: I don't even recall saying I have a theory in mind. No.

WITT: Okay.

BROWN: No I don't have a theory in mind. No. I don't.

WITT: Okay. I was just wondering. I saw it there and I was just wondering if there was something there that you . . .

BROWN: No. I remember they were asking me if I was privy to questions or conversations relating to the problem with the filing and I said no. I don't recall saying I have a theory in mind. But I didn't tape record myself.

WITT: Okay. Right. Well they did.

BROWN: Sure.

WITT: I was just wondering if there was some bases for it. That's fine, if you don't recall.

BROWN: Do I still need to provide you with a copy of this. I mean, if you have the copy of the Cole County . . .

WITT: I've got a copy of the sworn statement but I don't have a copy of that memo. If you could locate a copy of that. I've talked to some of the staff and they don't seem to have it either. If you could locate a copy for us, that would be greatly appreciated.

BROWN: Okay.

WITT: Representative Richardson do you have some questions?

RICHARDSON: Just one follow up that? Do you have a theory? Whether you said or didn't say earlier that you might have do you have a theory?

BROWN: No. I don't have a theory.

RICHARDSON: Do you have any idea how Tim could have come over there and signed this document, with apparently there's just the four of you working in Elections, plus the intern, and your the fourth that's testified, and no seems to remember him coming over.

BROWN: Well, when Representative Gaw asked me about if I ever see Tim come, I hesitated for a minute because I thought, I didn't even know what he looked like until I went, I guess I saw him on T.V. the first time. I wouldn't have known him if he'd walked in the room. So that's maybe why I hesitated you know have I ever seen him come into the office. If I didn't know who he was and I, we get a lot of people come in our office on a daily basis, but I certainly would have been aware I guess, if the person would have come to sign Declaration of Candidacy paperwork. I didn't know what he looked like. I

don't recall ever seeing him come in our office. I don't ever recall Barbara Campbell coming to our division to sign paperwork for something that was not signed when it should have been signed. Or anything like that at all.

RICHARDSON: Do you have any knowledge of that packet of filing information or filing documents ever being taken out of the Information building after they were taken over there from the Capitol?

GAW: No. I do not. No. I do not.

RICHARDSON: I don't have any other questions.

WITT: Representative Wible.

WIBLE: Just a couple of questions. Did you receive at some time from the Secretary's office asking for information about Tim Moriarty's paperwork?

BROWN: The only contact that I had received from the office or administration regarding my knowledge or any kind of contact with Tim's filing was when Secretary Moriarty came to my office.

WIBLE: She came in person to your office?

BROWN: Yes. She came in person. And she was the only one who spoke to me. Mr. Carroll or Mr. Wiseman never have asked me, "Did you ever see him come here to sign this paperwork? Do you know anything about this paperwork? Did Barbara Campbell ever say anything about having to sign Tim's paperwork after the fact" or anything like that.

WIBLE: I apologize. I was a little bit sleepy when you were testifying. So I may have missed something you said. But when the Secretary came to you and inquired, can you go through that again?

BROWN: Sure. Basically she asked me did Tim, did I ever see Tim Moriarty come to the Elections Division to sign his Declaration of Candidacy? And I responded to her I did not take place in the Candidacy filing. They took place over in the Capitol office. And she said, "Well, he would have had to come he to the Elections Division in the Information Center." I said, "No, I did not. I never saw him."

WIBLE: You didn't have occasion to pull the paperwork or look at it?

BROWN: No. Every now and then we'd have people from the Capitol office who would call over and ask about a certain time maybe a candidate filed because, as is explained to me, during the noon hour, for some reason or the other, the computer does not time stamp the time that the person comes in. They may have wanted to know the exact time the person filed. That would have been my only occasion to go back and look at paperwork. It was kept in our store room. During our office hours the door's open. Usually the way it's situated no one, I certainly would have probably noticed if I were in the area if someone from outside our division were to go back in there, because it's usually just accessed by our staff.

WITT: Representative Gaw.

GAW: A couple follow ups. I

think you've already answered this really, Shelly, but I want to make it clear so I understand. You did not make any contact with Tim Moriarty to call him or let him know there was a problem with his filing?

BROWN: No. I did not.

GAW: All right. And you do not know of anyone of your knowledge or have heard of anybody who made such contact with Tim Moriarty to get him to sign his name to that document after the filing had closed.

BROWN: No. I just had been made aware of that, you know, through the, what the media has publicized that at some point in time Barbara Campbell and Tim Moriarty did come and sign the paperwork. It was after the filing deadline had closed.

GAW: Even though you did not know what Tim Moriarty looked like, if someone would have come to you and asked you about signing their Declaration of Candidacy form or signing Tim Moriarty's Declaration of Candidacy form after the filing deadline, would you have recalled that?

BROWN: Most definitely. Yes.

GAW: Would that have been a very unusual event?

BROWN: Yes.

GAW: Have you ever seen that happen?

BROWN: I'm sorry.

GAW: Have you ever seen that happen?

BROWN: No. I have not.

GAW: That's all I have.

WITT: Anything further.

SHELTON: Yeah, I've got a question. How did you get your job. No, I'm serious.

BROWN: I was working in the Senate in 1993. I worked for Senator Curls from Kansas City and I was also a Reading Clerk in the Senate. There was a point in time when Secretary Moriarty was going to be a speaker at a Martin Luther King celebration. I ended up writing the speech for her. I'd never met her before. And I had met and contacted her that evening and just followed up with her. She had decided through the course of that session, after, I guess, visiting with me, that she would like to bring me on board and work in her office. And then throughout the later weeks of session in 1993 she asked me to come and take a look. Would I be interested in working in the Elections Division. And then after the session was over with I started to work in June of 93.

SHELTON: And who was your immediate supervisor?

BROWN: In the Election Division?

SHELTON: Yes.

BROWN: Gene Wiseman. He is my immediate supervisor as a Director.

SHELTON: Okay. I was reading here, I was trying to read this statement I guess that you'd given to Mr. Lee. You were saying that you was having some problems down there. How did all of that work out?

BROWN: I was having some

problems with my supervisors?

SHELTON: Supervisors, I guess.

BROWN: There have been some occasions to occur where we have had, I guess, personnel problems between our division, between Mr. Wiseman, Mr. Carroll and myself.

SHELTON: Okay. In your one statement you made you said they came up to the Capitol, three people I think came to the Capitol doing filing and they left you there to answer the phone. And you didn't appreciate that you was like doing clerical work. And you had some concern about that. Who did you talk to about that?

BROWN: I did, well, let me say maybe the situation I was addressing was probably the first day of filing like I said . . .

SHELTON: I was skimming through this I didn't read it.

BROWN: There, the first day of filing Mr. Carroll, Mr. Wiseman, Margaret Freeman and the intern Duffy Syda went to the Capitol for the day for the Candidate filings. And then I was left in the office with no regard to, you know, would someone be coming to covering when I go to lunch. Would I get to go to lunch? What do I do when I go to lunch? And I basically came into work that morning, they said you need to stay here and answer phones we're going to the Capitol for Candidacy filings and someone will be here to take care of you for lunch hour. And that was basically how I was told and I did not know who or what to do as far as you know if situation A should occur do I need to deal

with this right now? Do I need to send this over to the Capitol for you to deal with? Or what?

SHELTON: All right. Thanks.

WITT: Anything further? Mr. Brown, thank you very much for taking your afternoon out to be bored in the other room to give your brief testimony. We do very much appreciate it.

BROWN: When do I need to get the and who do I give that to?

WITT: If you could get that, well is it fairly easily accessible? Could you get it by tomorrow for us?

BROWN: Yes. I could.

WITT: If you could get it for us tomorrow and just some time during the day either just drop it by here in the hearing room or bring it up by my office which is 235B in the Capitol.

BROWN: Yes.

WITT: Thank you very much.

BROWN: Thank you.

WITT: Next. Does anybody need a break at this point? That was fairly short. Maybe we could keep moving.

SHELTON: Yeah. Let's take a 15 minute break.

WITT: Let's finish. We'll call Margaret Freeman. If we can get somebody to. Okay. Excuse me just one minute.

MARGARET FREEMAN: That's all right.

WITT: I realize you've been waiting all afternoon or all day actually.

FREEMAN: No. All morning.

WITT: All day.

FREEMAN: It's been a long day.

WITT: Yes. It's been a long day for us also.

FREEMAN: I bet it has.

WITT: It's probably a little more boring for you. At least we've had some interaction. If you would please raise your right hand. Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

FREEMAN: I do.

WITT: Will you tell us your name and where you live?

FREEMAN: Margaret Freeman. 906 Tanya Lynn, Jefferson City.

WITT: And what's your occupation?

FREEMAN: Administrative Aide, Secretary of State.

WITT: And how long have you held that position?

FREEMAN: Twenty-seven years.

WITT: So you've been there for

FREEMAN: A long time.

WITT: A lot of different Secretarys of State.

FREEMAN: Yes.

WITT: Okay. Have you had

that position throughout that entire time?

FREEMAN: I may have been called different things at different, I've done the same thing.

WITT: Okay.

FREEMAN: You just name it and Margaret will do it.

WITT: I've been called a lot of things, too.

FREEMAN: I know.

WITT: O.L. we don't need any editorial comments from you about what I've been called. Can you tell us I guess what, you were here in the Capitol office building. Is that correct?

FREEMAN: Yes.

WITT: Okay. Do you recall the day of March 21st?

FREEMAN: No.

WITT: Do you recall Tim Moriarty coming in to file or attempt to file for office?

FREEMAN: I was not in the building. See I was on the other end.

WITT: On the other end?

FREEMAN: Yes. I was just here the first day of filing.

WITT: Okay.

FREEMAN: They brought me over. Joe had told me I had to stay the whole two and half months.

WITT: Okay.

FREEMAN: And after that first

day there was no place to sit, there was no computer, and I thought, well now this is stupid. I've got things, so I did not stay after that point.

WITT: Okay. So you were here the first day of filing?

FREEMAN: Yes.

WITT: And then you went back over?

FREEMAN: Went back over to the office building.

WITT: Okay. The Information Center.

FREEMAN: Yes.

WITT: Okay. I'm sorry I was misunderstanding where you were at. Okay. What are your duties over in the Information building at currently, or is dealing with the filing of candidates?

FREEMAN: Partly. Right now we're in the petition business. You name it.

WITT: Well, as far as the filing of candidates what are your duties?

FREEMAN: This time?

WITT: Yes.

FREEMAN: Since we're away from the building?

WITT: Yes.

FREEMAN: Okay. Nadine every day would do a printout of the filings that had happened that day. Then they would send the Declarations over and Gene and I would proof the Declarations. And as far as me not noticing they weren't signed,

all I was interested in was how the name was going to be on the ballot, and if the spelling was correct, the address was correct. I did not look for the time, or the date, or signatures. I figured that was being done at the Capitol.

WITT: Okay. So they were brought over to your office.

FREEMAN: Inner office.

WITT: Okay. Brought over to the office.

FREEMAN: Yes.

WITT: And then you would

FREEMAN: Proof with Gene.

WITT: Proof them with Gene, together?

FREEMAN: Yes. He would look at the list and I had the Declarations.

WITT: Okay. And at that time you . . .

FREEMAN: And I put them in the files.

WITT: Okay. And you were reviewing them for their name, correct spelling and the way it was going to appear.

FREEMAN: Just so the list would be right.

WITT: Okay.

FREEMAN: That was all I was checking for.

WITT: And their address.

FREEMAN: Yes.

WITT: Now the list that was being published also had the

time and date on it.

FREEMAN: That's true.

WITT: So were you also proof reading that?

FREEMAN: No. Because you assumed it was the day before. I would get it the next morning. Buster would bring it over. So we would get them daily. It would be a daily update. So every list was a new list.

WITT: Okay. But you didn't, you weren't proofing at all the time and date?

FREEMAN: No. As best as I can remember. I can't swear to - it's been so much water under the damn that I don't know.

WITT: Okay. In reviewing those, even though you weren't looking for signatures, did you ever notice that there were ones that didn't have signatures on them?

FREEMAN: Now that's where we come down to it. Somebody did call and it was after the filing deadline.

WITT: Yes.

FREEMAN: And I know everybody has said, "Yeah, somebody called and said 'Margaret pull the Declaration in the 56th.'" I did. And that was when I noticed there was no signatures. I took it to Joe and Gene. I never asked where it was signed, how it was signed.

WITT: Okay.

FREEMAN: So I don't know anything about it.

WITT: Okay. Let's back up here just a minute though. I'm going

back to when you're reviewing the documents and proof reading them. Did you ever notice that any signatures were missing? Even though you weren't proof reading for that, did you notice that there were some that didn't contain signatures?

FREEMAN: No.

WITT: You didn't even, weren't paying any attention to that whatsoever?

FREEMAN: I was going strictly what's in the black box.

WITT: Okay. Now as to Tim Moriarty's filing, do you recall when you proofed that to check it against the list?

FREEMAN: No. I don't recall.

WITT: You don't recall that in particular? Even though it was your boss's son?

FREEMAN: I really didn't even know it was my boss's son. I really didn't.

WITT: Okay. When did you first become aware that there may be a problem with Tim Moriarty's filing?

FREEMAN: Whenever whoever it was that called me said to pull that 56th. And I looked down and there was no signature. Then I knew that something was bad wrong.

WITT: Okay. So you got a call at what point? Do you remember what date it was?

FREEMAN: No. I have no idea.

WITT: Do you recall who it was that called you.

FREEMAN: No. But see I get

about 200 phone calls a day. So you can't expect me to even come close to, see all the secretary's call to see if anybody's filed against their boss. We have, it's just, you know there's no way.

WITT: Yeah, I think I've called you a few times to find out if anybody filed against me.

FREEMAN: So you don't recall, was it someone you recall from over here at that Capitol office?

WITT: I don't know if it was inner office. I don't know. I really don't know. It could have been somebody from Jackson County wanting to know if, who had filed in the 56th. It could have been anybody. They just asked me to pull the 56th and when I did

WITT: Okay. Did they ask you specifically about Tim Moriarty's or all

FREEMAN: No. They asked for the 56th.

WITT: Okay.

FREEMAN: They asked for the 56th.

WITT: Do you recall if this was after filing had closed?

FREEMAN: Oh, it was after filing closed. Way after. That's when I knew we were in trouble.

WITT: Okay. Filing had closed and somebody called and said they wanted to know about the 56th. You pulled it up and you saw that

FREEMAN: There was no signatures.

WITT: Tim Moriarty's had no signatures on it.

FREEMAN: That's right.

WITT: What did you do with it at that point?

FREEMAN: I took it to Joe and Gene. Now it could have been Gene and Joe. I don't know if they were together because their offices are right next door. But they both were aware that there was no signature on the Declaration.

WITT: Okay. So you took it to each one of them either together or individually? But you showed it to both of them?

FREEMAN: We were all together.

WITT: Okay. Did, what was their reaction?

FREEMAN: There wasn't any. I just said well, here this is and you know.

WITT: So you knew there was something dead wrong but they didn't.

FREEMAN: They knew it. We all knew that there was something wrong. But I didn't know how it was going to be handled. And it's not my place to, you know, that's not my ball game.

WITT: Okay. But they didn't, did they seem overly concerned or not concerned at all or?

FREEMAN: Nobody went into a tail spin. No.

WITT: Okay. Did they, while you were there, did they make any phone calls or do anything? You just gave it to them and then you left?

FREEMAN: I went back to my

post.

WITT: Okay. What was the next thing you heard about it?

FREEMAN: I think the next I knew about it was when Nixon had it taken off the ballot.

WITT: Okay. So you didn't hear anything more about it?

FREEMAN: No.

WITT: Did you ever fax a copy of it over here to the Capitol?

FREEMAN: Not to my knowledge.

WITT: Okay.

FREEMAN: But that's not saying I didn't, because I could have.

WITT: Okay.

FREEMAN: If somebody would have asked me to I would have, so you know you can't

WITT: Okay. So after you had discovered that there was no signatures you took it to the two of them. You turned it over to them. You didn't have any further dealing with it until you heard the Secretary of, or the Attorney General was removing

FREEMAN: Then we pulled it and put it in the disqualified file. That's it.

WITT: Okay. Did you ever see Tim Moriarty come?

FREEMAN: I wouldn't know Tim Moriarty. I saw him when his mother was inaugurated. When they came down the rotunda. I don't think, I have seen him on T.V. since then, I

might recognize him now. But no, he could have very easily been in the office and I wouldn't, I'd either have my head in a computer and wouldn't know he was passing through. Or unless somebody introduced me to him and I've never been introduced to him, so I wouldn't know him.

WITT: Did he ever, to your knowledge, did anyone ever come over and ask you if they could sign a Declaration form after it was over in your office?

FREEMAN: No.

WITT: Okay. Did anyone ever talk to you about changing a Declaration form after it was over in your office?

FREEMAN: No.

WITT: And you'd recall that if it had occurred?

FREEMAN: Oh, I would recall that.

WITT: Do you ever recall anybody, seeing anybody over in the room where these files are kept?

FREEMAN: That are not personnel there in the building?

WITT: Right.

FREEMAN: Well, there were people I think that came with Mr. Lee because they had some people in there and I don't know if they copied every one, manually copied every Declaration, but there were, but they was either with Nixon's office or Mr. Lee's office.

WITT: Okay.

FREEMAN: Now they were in there. I don't know they was . .

..

WITT: Okay. But prior to that you didn't

FREEMAN: Yes. It was after all the turmoil and everything. There were people in there.

WITT: Okay. Did you ever see, you saw the one that had no signatures on it and you brought it to their attention. Did you ever see one that had signatures on it?

FREEMAN: Yes. Yes. When we pulled it. When Nixon wanted it pulled and I pulled it and it was signed by Barbara Campbell and by, I assume, Tim Moriarty.

WITT: Did you ever ask anybody how the signatures got there?

FREEMAN: It's none of my business.

WITT: Did you ever hear anybody discussing even though you weren't trying to find out what?

FREEMAN: No.

WITT: One of the few state employees who isn't gossiping?

FREEMAN: I've been around too long for that.

WITT: I think that's all I have right now. Are there other questions from committee members?

SHELTON: I have just one.

WITT: Go ahead.

SHELTON: Barbara, did you ever have the occasion to call Tim to ask him to come in and

sign his Declaration?

FREEMAN: No. O.L., I've never talked to him.

WITT: Is that it?

SHELTON: That's it.

WITT: Any further questions? Representative Gaw.

GAW: Thank you, Mr. Chair. Margaret, if I understand you correctly, you don't remember whether you faxed any document or any portions of documents out of Tim Moriarty's file over to the Secretary of State's in the Capitol?

FREEMAN: I don't remember doing it. No. But in the last ten days I have faxed Hancock Two to at least two thousand people.

GAW: Right.

FREEMAN: And you just can't, I mean you just don't know you know if somebody called if Marie Gladbach called "I need a copy of the Declaration." I would say, "Yes, I'll get it for you." But I don't make a mental note of it because to me he's just another candidate and there's five or six hundred of them in that box.

GAW: Right. Do you recall whether or not, would you have recalled it if the Secretary of State herself had requested it?

FREEMAN: If she herself would have asked me, then I would remember. No. She did not ask me.

GAW: All right. And would you recall if someone from the Secretary of State's office here . . .

FREEMAN: If Joe would have

told me to have sent or if Gene would have told me I would have automatically done what was asked. Or if somebody from the Capitol called and asked for it . . .

GAW: From the Secretary's office in the Capitol?

FREEMAN: Yes.

GAW: And would you have any recollection of it if there had been a request to fax a document and for instance the first document faxed was the worksheet and a second request back to you again that that was not the paperwork they were interested in. They needed the Declaration. Would that have been something unusual that would have caused you to remember?

FREEMAN: Well, yeah, you would have had to taken it all apart because they're all separated. You know there's the receipt from headquarters and then there's the Declaration itself, and then there's the worksheet. And you would really had three different documents you would have sent to them. I don't think I did.

GAW: You don't believe that you did what Margaret?

FREEMAN: I don't believe that I sent all three things to the Capitol office. Unless they asked for all three things. Then I would have sent it.

GAW: Yeah. But you don't recall doing that?

FREEMAN: No.

GAW: Would it have registered any differently so that you might remember it today if you had

been asked to fax a document and then had been called back saying we need the Declaration instead of the worksheet?

FREEMAN: It would have probably. I would have had gone back to the files and taken it out again. I don't think I did anything like that.

GAW: Okay.

FREEMAN: I really don't think I had anything to do with that.

GAW: Yeah. So this call that you got then, you don't believe it was as a result of a request on Tim Moriarty's file in particular? You think it was just the 56th?

FREEMAN: It was the 56th district but there was just the two Declarations in it. Linda Lane and Tim Moriarty. So . . .

GAW: So you believe that it was a request on the Democratic side not on the 56th on both the Democratic and Republican?

FREEMAN: No. Because I pulled the Democratic side.

GAW: Only.

FREEMAN: Yeah. I pulled the, definitely because they're separated.

GAW: Okay. And you don't believe it was a specific request for Tim Moriarty's file that your recalling?

FREEMAN: They didn't ask for Tim Moriarty's file. They asked for the 56th. Whoever called me.

GAW: Okay.

FREEMAN: And then I found out later, you know, it was his. I

don't really even knew it was her son then.

GAW: Yeah. If somebody had asked for Tim Moriarty's file in particular.

FREEMAN: I would have probably had to look up and see what district he was running from.

GAW: Yeah.

FREEMAN: Because I don't know where the boy lived.

GAW: And that was not the request that you're recalling?

FREEMAN: No. They asked for the Declaration out of the 56th. And I pulled them.

GAW: And that is when you discovered the lack of signature?

FREEMAN: Yes.

GAW: So if someone's testifying that there was a request to Elections, or to the office over across street from the Secretary of State's office, about documentation on Tim Moriarty's file that was not a request that you recall having received?

FREEMAN: No. It didn't come to me.

GAW: And there is, and the only people that work in that office or who?

FREEMAN: Joe is head

GAW: Joe Carroll.

FREEMAN: and Gene Wiseman is Director of Elections and myself and then Shelly.

GAW: Shelly Brown.

FREEMAN: Shelly's there. He's the Brown.

GAW: Okay. Those are the only four that worked in that office during the time frame of last spring and early summer. Is that correct?

FREEMAN: Well, there was Duffy.

GAW: That was your intern.

FREEMAN: We had this boy, Duffy Syda, yeah.

GAW: Yeah. What were his responsibilities?

FREEMAN: Oh, Duffy knew how to do everything. He was a senior at MU. He was a Darling kid. He just fit in with all of us.

GAW: Okay.

FREEMAN: He'd do anything you wanted him to.

GAW: You've been working 27 years.

FREEMAN: Well, I've been working a lot longer than that.

GAW: In the Secretary of State's office well . . .

FREEMAN: I was in the House perfecting room for ten years.

GAW: Okay. We won't get into that.

FREEMAN: No. Let's not. (End of tape #9)

GAW: But for the last 27 years, you've been in Elections.

FREEMAN: I've done the same thing for all this time.

GAW: Have you ever known a

candidate to file a Declaration of Candidacy form after the filing deadline, other than in this case?

FREEMAN: I've seen them filed, many of them filed right at 5:00. But no, I've never known of, and I've never known of anything being changed other than a name change. We have done that with a notarized statement that they wanted, they felt more comfortable with a, you know, instead of having a nickname to have their regular name. And if a notarized statement we would make the change before a certain period of time. Other than that, no.

GAW: No. Were you ever aware during this time frame that Barbara Campbell came over to sign this Declaration?

FREEMAN: No. I didn't see her come or go. But now Barbara was in and out of the building occasionally.

GAW: Okay.

FREEMAN: But, no, I have no idea when the Declaration was signed.

GAW: And you never saw Tim Moriarty come over and sign it, that you know of?

FREEMAN: If he did, I didn't know who he was.

GAW: And did, if he had come to you and asked to sign his Declaration after the filing deadline . . . ?

FREEMAN: I would have probably fainted.

GAW: Okay. I assume that that means you would remember it today.

FREEMAN: No, I would have said, "You're going to do what? Not now you're not."

GAW: You wouldn't have let him do it?

FREEMAN: No. That wouldn't have happened.

GAW: All right. And I take it it didn't happen?

FREEMAN: Not to me.

GAW: Do you know of anyone that was present at the time that he signed that Declaration?

FREEMAN: I don't even know that it was signed in the building. I have no idea where it was signed. I don't know anything about how the signatures got on the paper.

GAW: Okay. But they didn't happen when you were there?

FREEMAN: No. And I'm there from 8:00 to 4:30 every day.

GAW: All right. I believe that.

FREEMAN: Yeah.

GAW: And you have had no conversations with the Secretary of State about this?

FREEMAN: No. None. The only time I was in her office was the first day that she was sworn in and I walked through and congratulated her. That's the only time I've ever been in there.

GAW: Okay. The rest of the time you man the shop over there.

FREEMAN: Well, we thought we ran a tight ship, but now I'm not sure.

GAW: Are you aware of anyone who has, other than Lee that you mentioned earlier, the investigator from the Cole County Prosecutor's office, that would be going back into those files where the Declaration forms are kept?

FREEMAN: Well, now Joe did have Shelly to xerox all of the Declarations. Because I think they've all been brought someplace and he wanted a copy of everything, so we'd have a back up.

GAW: Was that recent? When was that?

FREEMAN: No. That's been quite awhile ago.

GAW: Before June?

FREEMAN: Well, yeah. Because they had taken them up to the Cole County Court House during that . . .

GAW: Was it done for the purpose of keeping copies when the originals were taken to the Cole County Prosecutors?

FREEMAN: Yes. While all the originals were out. So we'd have something there at the office.

GAW: Anyone outside of the Elections Division that you've ever seen back in those files?

FREEMAN: No. Well, now, Nixon had some people back in those files.

GAW: Nixon had some too?

FREEMAN: Yes. He did.

GAW: All right.

FREEMAN: I don't know who they were.

GAW: Was that during, was that, I'm sorry.

FREEMAN: Who's the young man that has the crippled, that's had a, where is he? Yeah.

GAW: Someone with the Attorney Generals office? Was that a part of this investigation also?

FREEMAN: Yes, yes.

GAW: Aside from those people that were involved in the investigative process and the Elections people that you mentioned work in the Elections Division, did you see anybody after March the 29th in those, in that file room where those Declarations are kept?

FREEMAN: No.

GAW: Would you have noticed that?

FREEMAN: I would have noticed if anybody strange went in there, yes.

GAW: What do you mean by strange, Margaret?

FREEMAN: Well, we keep envelopes in there. We keep stationary in there. And some of the people, you know, there's other people on our floor and if they need manila envelopes they'll come get them, or if they need file folders. But anybody that was different I would notice, if they went into the room.

GAW: Okay. Was it normal business or was it anyone else's business to be inside those file folders where these Declarations were kept?

FREEMAN: No. Nobody would have any interest in those

whatsoever.

GAW: Well at least they shouldn't have any interest.

FREEMAN: No. They shouldn't have.

GAW: I think that's all I have.

FREEMAN: Okay.

GAW: Anybody else?

WITT: I've got a couple more. I'm going to jump in in front of you. Are you aware of any time that a candidate may come in and fill out the paperwork or think that they've filed and the paperwork doesn't get filed for sometime later?

FREEMAN: Well, now I told Mr. Lee, this was, when Roy first came in and we were in the Truman building. And this gentleman came in and he was from down southeast Missouri someplace. He filed, you know, we have tables set up. We have the Republican and the Democrat and you can pay your filing fee to expedite things so, you know, we do it later. But this little, he was an elderly gentleman. And he came in and paid his filing fee. And I think he got confused and he thought by paying the money he had filed. And so mid-morning, I don't remember whether it was Democrat or Republican, but anyway, the girls brought their list back and it didn't geehaw because we hadn't, didn't have a Declaration for him. And so we traced him down through either Democratic headquarters or Republican and they told him he had not filed. But see this was the first day of filing. He could have come back any other day. But since he had come all this way we wanted to catch him if

we could. And so they did catch him and he did come in and he completed his Declaration. But the poor little man thought by paying the filing fee he had filed, but he hadn't.

WITT: The only reason I'm asking, there is a Declaration of Candidacy and documentation accompanying the worksheet and that, I've got here, and everything is dated February 22nd, 1994. And there is a post-in note on the front that says "Not filed as of 2-24-94" and has your initials down at the bottom of it. I'll bring this around and show it to you. I'm just trying to clarify what the . . .

FREEMAN: Yeah. Yeah, that's my handwriting. James Perry, State Representative, Republican, not filed. He must have shown up on the list and we didn't have the Declaration. Marie, evidently they hadn't sent us a Declaration and it was on the printout.

WITT: So probably what happened on that was the printout came . . .

FREEMAN: It probably wasn't on the print out and we had the Declaration, so I put "not filed as of" and waited until finally the printout came.

WITT: Okay. But that wasn't something that later they came in and signed?

FREEMAN: Oh no, no, no, no, no.

WITT: Okay. Well, I just wondered because I saw that post-it note with your initials on it and I just wanted to clarify to make sure that was . . .

FREEMAN: I would think that

was probably, the list came first or the Declaration came, and it wasn't on the list, so I wanted to make note to make sure that it was on there.

WITT: And you don't recall that particular situation?

FREEMAN: No. But that's my handwriting.

WITT: Okay.

FREEMAN: So. But like I said with five or six hundred of them you can only remember just so much.

WITT: Five or six hundred over 27 years, each two years.

FREEMAN: Just remember just so much.

WITT: Okay. Representative Richardson.

RICHARDSON: Just a couple of questions.

FREEMAN: Okay.

RICHARDSON: Over the years I guess you've seen a lot of different peculiar situations with filings and things.

FREEMAN: Yes. We have.

RICHARDSON: Have you ever seen situations where someone was allowed to file after five o'clock in the evening or on Saturdays?

FREEMAN: Well, now I have filed them on Saturdays. I'll have to and Eula did too. Richard Bolling out of Kansas City could never get in, and Eula would go over and file him on Saturday. And this Chad, what's his name, Bullock from southeast Missouri, files for

Congress.

RICHARDSON: Thad Bullock.

FREEMAN: Yeah. Well, he remembered my name. So they called the Archives, they were over there and said, so he got me on the phone, "Can't you come over. I can't afford the hotel bill for two more nights for Monday. Will you come over and file me?" So I did go over and file him on a Saturday morning.

RICHARDSON: Okay.

FREEMAN: Just a, you know.

RICHARDSON: He had gotten in Friday, late, after closing?

FREEMAN: Yeah. And he didn't want to have to stay over until Monday, so I did file him.

RICHARDSON: Were you ever of the opinion that filing someone after five or on Saturday was illegal?

FREEMAN: No. I really wasn't. Because Eula would do it for Congressman Bolling. And there's been others that have filed on holidays. I can't remember, they were special days to them and it be on, so, no. It's been done in the past.

RICHARDSON: And you would actually come back in, open the office up, and let them file. Is that the way you would do it?

FREEMAN: Yes.

RICHARDSON: And with Congressman Bolling

FREEMAN: That was a long time ago.

RICHARDSON: Did someone actually go over to Kansas City?

FREEMAN: No. Eula, no he would come through here.

RICHARDSON: He would come through here.

FREEMAN: He would come through here, but he couldn't come during the week because they were in Washington. And so he would come through here and she would take care of him.

RICHARDSON: Generally, Secretary of States in the past have been, try to be fairly, accommodating to people that had some kind of hardship if they met all of the requirements of filing. You didn't hold them to the technicalities of being after 8:00 or before 5:00 or?

FREEMAN: We just felt like it was something we should do if it was helpful to them.

RICHARDSON: I don't have any other questions.

WITT: All right. I've got a couple of more. Are you aware of any candidate that's ever been allowed to file after filing had closed?

FREEMAN: No. Well, not without a special election.

WITT: Okay.

FREEMAN: Now we've had a number of those this year. About 15.

WITT: Where a Judge had ordered or something but just on a normal

FREEMAN: No.

WITT: Are you aware of any candidate that's been allowed to fill out, come here and fill out all the paperwork, but not have it

filed until later, when they'd been back home?

FREEMAN: I've never known of that happening either.

WITT: Have you ever known of anyone being allowed to have their paperwork filed even though they weren't present?

FREEMAN: There has been. It was during the Korean War, I believe, and the young, I do, yes, he was overseas and he was going to be getting out. And he was from California, Missouri, and he was filing against that Harold Dixon. And I don't remember the boy's name, but yes, they did somehow or other technically they did take his filing. There was a big to-do about it, but we did take it, because he was going to be out of service then.

WITT: Okay. Other than that?

FREEMAN: No. No. No.

WITT: Your institutional memory is wonderful.

FREEMAN: Oh, God.

WITT: Have you ever thought about writing all of this down?

FREEMAN: Eula and I always thought we could write a book but then we'd have to leave town. We've seen a lot.

WITT: I'll bet you have. I'll bet you have. Are there any other questions committee members? Representative Gaw.

GAW: Thank you. Back to the signatures on the documents. Margaret, I, you've probably answered this. The XM designation, when it showed up did, was that something that you

checked or not?

FREEMAN: The what?

GAW: The time of filing on Declarations?

FREEMAN: No.

GAW: You didn't check that?

FREEMAN: Sooner or later we would have checked it before we certified the booklet out. We would have gone through those with a fine tooth comb.

GAW: When would that have been?

FREEMAN: Well, that's after the final deadline for anything, there's a period of time that you know, before we start working on a certification book. That's when we really take them out and go over them with, you know

GAW: Do you know about when that is? What time?

FREEMAN: If I had a calendar here I could tell you.

GAW: Well

FREEMAN: Not that kind of calendar.

GAW: Your calendar.

FREEMAN: Yeah.

GAW: Is it in June or July?

FREEMAN: It's in June.

GAW: It's in June.

FREEMAN: Yeah.

GAW: Would it have been, was it after the time when it was brought to your attention.

FREEMAN: It would probably be around the 15th of June or somewhere along there.

GAW: After the time you became aware of this problem?

FREEMAN: Oh, yeah. Yeah. Cause see, if we had started going through those, if we had really been checking them. But see the main thing for us to do was to get the list together. And then we knew that we were going to go through word by word by word before we sent out this booklet that had all the candidates names in it.

GAW: So if there were corrections on the XM portion of the filing, that would have been done here in the Capitol?

FREEMAN: Yes.

GAW: On the time?

FREEMAN: Yes.

GAW: Also, okay, and I'm still, I'm having just a little bit of trouble visualizing how you look at these Declarations for that gray area in the center and not see the signature line.

FREEMAN: Well, signatures are down here at the bottom.

GAW: Right.

FREEMAN: And the square is in the middle of the page. And all I did was pull them up in the folder and flip through.

GAW: So you were flipping through like this?

FREEMAN: See it had the district number and the political party up at the top. And then the black box. That was as far as we looked.

GAW: So in other words, would the signatures . . . ?

FREEMAN: There down at that bottom.

GAW: Would they have been covered by the previous pages?

FREEMAN: Yes.

GAW: As you went through them?

FREEMAN: Yes.

GAW: Am I following what you're saying?

FREEMAN: Yeah.

GAW: Okay. Thank you.

WITT: Any further question? Mrs. Freeman, thank you very much for spending your day over here being bored and for enlightening us so.

FREEMAN: It's been absolutely, I said this has been the best dog and pony show I've ever seen.

WITT: Okay a couple of things. That's the last witness we're going to hear from today. I would like to pass these around to the committee members. These are copies of an employment contract for the attorney, Mark Richardson. Not for this one. We don't want to pay him. We're already paying him enough. \$35.00 a day. Basically, it's just a general employment contract for an attorney. I'm not intending to have him come begin work with the committee at this point. I don't think we'll necessarily need him unless an article comes forth, but we need to have it prepared. This is based on the contingency that an article

would come forth, and representing the committee at that point. Is there any question about this at this point?

RICHARDSON: Would it be possible to add his middle initial on this?

WITT: I'm not sure what his middle initial is.

RICHARDSON: A.

GAW: You want to put his bar number in there or anything?

RICHARDSON: Put his bar number.

WITT: We'll make sure it's his signature at the bottom and we'll watch him sign it so.

RICHARDSON: But who's going to watch you? I just, that the press and everyone knows that this is. . . .

WITT: I think everyone knows that we're not hiring you to represent the committee. We trust your abilities as a legislator, but we haven't seen you practice law.

RICHARDSON: This Mark Richardson and I have been confused for years and years. Back in the early 80's he use to be in the AG's office and I prosecuted in Butler County and he would handle the criminal appeals for my trials. And it just constantly caused, I'd like to make sure history doesn't repeat itself.

WITT: We will try and make it clear that this is not you.

RICHARDSON: Thank you.

WITT: Are there any other changes or corrections that

anybody thinks needs to be made to this? If not, why don't we go ahead and have a motion to present this to Mark Richardson.

SHELTON: So motioned..

WITT: Second.

RICHARDSON: Second.

WITT: All in favor say "aye."

COMMITTEE: Aye.

WITT: Opposed "no." Ayes have it. And the last thing for today is tomorrow morning, our hearing notice schedules our hearing to begin at eight a.m. and I know that we've given you a lot of documents today that people need to look over and don't want to get up early and work on those but not too early. So if there is no objection we'll move the hearing back to nine a.m. to give you an hour to study documents. It appears there is no objection to that either. Okay. Well then we are adjourned till nine a.m. tomorrow morning. (End of tape #10)

• ADJOURNED •

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PROCEEDINGS

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REP. WITT, CHAIR: The committee will come to order. Once, again, for those of you that are here if there is anyone that has been subpoenaed as a witness, or intends to appear as a witness, you do need to leave the room. We have got hearing room 8 set up back over here to have the witnesses wait, but we do not want witnesses in that are going to listen to other witnesses testify. So if there is any one here I would appreciate it if you would go back over to hearing room 8 until you are called.

WITT: Representative Richardson, I believe that you had an issue that you wanted to bring up to start this hearing.

REP. RICHARDSON: Yes, thank you, Mr. Chairman. I've been reflecting further on the events of yesterday afternoon with the testimony or lack of testimony of Nadine Barrows, and I'm quite concerned about the situation with invoking her constitutional right to not testify. And as we look through and review what our mission here is on this thing trying to determine what, if any acts or omissions were committed by Secretary Moriarty between the 21st and the 29th, I think that her testimony becomes extremely relevant and extremely crucial to our fact finding mission here. It is my understanding, although it's not a speciality of mine in the legal field, it is my understanding that with the power of subpoena comes certain powers that we can invoke against her in order

to force her testimony which might include a contempt citation or order from a circuit judge, if we pursue it, to elicit that testimony and given, you know, the magnitude of this thing and the potential ramifications here of this proceeding, I think it behooves us as a committee with the obligation of finding the facts to pursue this matter further. And I would like to make a formal motion, if there is any support on the committee to instruct our either our in house counsel here or our hired counsel to proceed with that as quickly as possible. I don't want to delay these proceedings with this and I don't know that it would necessarily involve a delay in it, ultimately, but I do feel that it is something we need to pursue. It's information that we're going to have to have if we're going to make an intelligent informed and fair decision on this matter.

WITT: I appreciate your position on that. You and I have discussed this. If she had refused to answer any questions I would, or any substantive questions, I would probably agree with you. We probably would be moving forward toward court. Because of the questions that she did answer and only the few that she refused to answer I think it's pretty clear what the inference is from those. I think that we can proceed with that and I do think that it would take a lot of time and a lot of cost to go forward, when I think we've gotten what we need from the testimony that she gave. The other issue is that although, her

attorney was not stating the 5th Amendment, the arguments on the 5th Amendment in this matter, I believe that she does have the 5th Amendment right if she is going to, if her testimony today would be different than that that she gave under oath in front of the Grand Jury, which was sworn testimony, she would subject herself to perjury and I believe that under that basis she would, if they raised the argument correctly, she would be successful in not having to answer those questions when the truth would change the statement.

RICHARDSON: I don't know what that outcome would be. I know that before this whole process is over, the General Assembly is probably going to spend upwards to a quarter of a million dollars to go through this impeachment process and the cost of hiring an attorney to provide a couple of hours of service and seeking some sort of an order from a court seems to be minuscule to me compared to potential value of it to this committee. And as far as the inferences that we can draw, certainly we are entitled to do that, but unfortunately the inferences that can be drawn lead you down two completely different paths. One would tend to completely exonerate Mrs. Moriarty on the issues surrounding the events of the 21st through the 29th. The other path that you could follow might tend to implicate her and I'm not prepared to draw those kind of inferences or draw those

assumptions based on a person's refusal to testify and to give us information that is obviously pretty crucial to this hearing. If we are refocused away from the events of the 21st through the 29th, if we like the jury have determined that there is not anything they, that is impeachable and we are just simply looking at the issues surrounding the month of May or whenever those signatures were placed on the document, then it becomes less relevant. I don't know if we have reached that point or not, it is my understanding that we are looking at the entire process and that we are considering articles that would include the events of the 21st to the 29th. Have you reached a conclusion in your mind?

REP. SHELTON: Gentleman, have I heard a second to the motion?

WITT: I have not heard a second. Is there a second to the motion? Seeing none, the motion will die for the lack of a second.

WITT: If there is nothing further the first witness that we will call will be Hal Hebert. Good morning, Mr. Hebert. If you will have a seat and raise your right hand. You do solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth and nothing but the truth, so help you God?

HAL HEBERT: I do.

WITT: Will you state your name and address for the record?

HEBERT: My name is Hal

Hebert. I live at 308 Rear West Ashley, here in Jeff City.

WITT: And what is your occupation, Mr. Hebert?

HEBERT: I'm programmer analyst II for the Secretary of State's Office.

WITT: How long have you held that position?

HEBERT: A little over 8 years.

WITT: And before that did you have other experience in computer programming?

HEBERT: I've been programming since around the latter 70's.

WITT: In your role as computer programmer for the Secretary of State's Office did you have occasion to create a program for the filing of candidates?

HEBERT: Yes, I did.

WITT: And when did you create that program?

HEBERT: Well, the first one I created was in 1986, but this last election, the primary, the August primary we converted to a new programming language, so this current August primary was brand new.

WITT: So you had a new system that you were working under that you created yourself?

HEBERT: Yes.

WITT: And can you explain how the system would work in conjunction with a candidate filing? What had to be typed in? What information had to be input and how was it done?

HEBERT: Sure, the process was, was that a candidate would come in. They would fill out a work sheet with their name, their office, ward, precinct, etc. They would have a receipt from whatever party they were running under and it would be time and date stamped with a time and date stamp machine. The entry person would take this piece of paper and enter that information into a database. When it was all entered they would hit the F8 key which would create a merge letter which would be printed as a declaration. The declaration would be given to the candidate and he would be instructed to look at the highlighted areas and make sure everything is correct and to sign the document. It would then be countersigned by one of the election officials.

WITT: In regard to the document that was printed out, as far as the date being put on it, the date and time, how did that work, can you . . . ?

HEBERT: Well, there are several ways to do that. The computer keeps its own system date which is the current time and date as of that instant and you can either use that or you can physically put it in and for example, more often than not it is physically put in because you may have 10 candidates waiting to be filed. So you go by the time stamp on the work sheet and you just physically enter that time into the computer at that point in time.

WITT: What would appear on the date line if no date were entered either by hitting the key to make the computer enter the date and time that was current in its memory or by inputting

into the date personally?

HEBERT: The date would show up as "record not found."

WITT: If I wanted to create a document today reading back in March of this year could I put in a March date in and would it print it out just like that?

HEBERT: Yes, yes.

WITT: So I could create a document referencing any time or date that I wanted to just by typing that in?

HEBERT: Correct.

WITT: Were there any parameters on the time and date if you used, if you typed in the time and date or if you put in a time and date that was not within the filing period, 8 to 5, Monday through Thursday or Monday through Friday or if you put in a date that filing closed March 29th? If you put in March 30th, would it just print out a document that said that or were there fields in there that would kick it back?

HEBERT: No, there were no I "gotcha's" in there. It was strictly up to the operator. The only time that you would get errors is if you put in (a) no date or time or (b) the wrong date or time and by that I mean, if you put in March the 32nd for example, you would get an error, if you put in say 14 for the hour instead of 12 or less, you would get an error. But outside of that it would take whatever you put into it.

WITT: Now, as far as a time that went in between 12:00 and 1:00 was there a problem with the program and how it worked?

HEBERT: Yes, there was a glitch in the program and still is that I believe it's from 12:00 until 12:59 on the time you would get your colon XM instead of the proper time. Because shortly before about 2 weeks before the filing started we decided to change from military time to a.m., p.m. time so I wrote the routines for that and obviously I didn't get the one from 12 to 1 proper. So what we would do in those cases is I would go back in and re-enter the time. There is also what is called a forced time you can hit, a special key, and it will say what time do you want? And I would put that in and it would accept it, through a separate routine.

WITT: Was that issue ever fixed?

HEBERT: No.

WITT: Now, in going through the documents we have found a number of them that have times between 12 and 1. Would it sometimes print the time and other times not or how did they go about getting, we've had one that was 12:01 another one that was 12:10, I think there was even one from the 56th District on the 29th that had a time of 12:10.

HEBERT: No. Like I said what I would do was every night before they would post the listings if there is anybody between 12 and 1, I would go over and re-enter the time and the machine would accept it at that point.

WITT: Okay, but what about the candidate declaration form, we have some that the actual candidate declaration form

shows a time between 12 and 1?

HEBERT: That I can't explain. You should have gotten an error on it.

WITT: Okay. Also if it were file stamped on a date, the 22nd, but you didn't want to file it on the computer until the 29th, could you go ahead and note the declaration but the worksheet was filed stamped you could go ahead and put a different date in the computer?

HEBERT: Sure.

WITT: Did you ever have any dealings specifically with Tim Moriarty's filing?

HEBERT: No, not until the Prosecutor's investigation. When they would come over to our place and go through the files and look, I was there watching them and I saw that his declaration was in the computer as a record being deleted and it was filed on the 29th at 1:19. It doesn't say when it was deleted, just that it was deleted and as I recall right around June 22nd is when Tim withdrew from the race and right around the 23rd or shortly thereafter, the Prosecutors confiscated all of our equipment and took it over to their office. And in fact they are the ones that pointed it out to me that his name still was in there as being deleted. But the way the system works, Clarion is the programming language, and if you think of it as a bookshelf where you can put books up, your candidate book 1, your candidate book 2, book 3 and they go into sequential slots and let's say you filed ten candidates but you delete one, delete the fifth one let's say. Okay,

Clarion will then reclaim that space with the next filing. If there are a lot of deletes then it will reclaim according to its own internal whatever it uses to calculate where the closest space is. So in effect, Tim's record was in the file as being filed March 29th at 1:19, but there was no other record of him being in there.

WITT: He could have been in there, but then deleted and the computer filled that space?

HEBERT: Yes, he could have been.

WITT: Is there any kind of a password or code or special key you hit in order to input a time other than the time in the computer's memory?

HEBERT: Yes and no. You can bring up the record of the candidate, just take the cursor down to the time and date field and put in whatever you need to put in.

WITT: Okay.

HEBERT: Or if you did that let's say it was in the morning, and you put in 9:45, the computer would automatically pick up the a.m. part of that. So there is a special key that if you're in the morning and you need an afternoon date you hit the key, and it asks you do you want a.m. or p.m.

WITT: So, if someone were filling one of these out and they had a time between 12 and 1 and they realized that the computer was doing XM between the times, then they could go in and actually put the times in between 12 and 1?

HEBERT: Yes.

WITT: Okay, so that could explain some of these that we've found that have times between 12 and 1?

HEBERT: Yes, in fact, probably that may explain it, because like I said for you as a candidate to look and see if this is right and if you see an XM down there, obviously it's going to be a mistake. So they probably go back in and correct that mistake.

WITT: Is there any kind of safeguards on this computer system to make sure that if I'm up there as a janitor at night, that I don't create a bunch of files with their passwords, that only the employees have or are there ways to keep people from going in there and . . . ?

HEBERT: The only security in that respect is that, yes, there are passwords. You have to have a password to get into the system. A user ID and a password. However, once you are in the system you could, the menu would come up and it would be kind of follow the bouncing ball type thing. Outside of that there is really no security. In fact, anyone that is fairly knowledgeable could go in there, make a copy, if they knew what they were doing, of the files of the programs, take it home to their computer and do whatever they needed to do with it.

WITT: And I could probably create a candidate declaration on my computer at home if I had the right software, even without your program, make it look like this?

HEBERT: Sure you could, you'd have to have the same printer to make it come out right, but . . .

WITT: Did you do any instruction of the employees on how to operate this computer?

HEBERT: Yes, I did.

WITT: Were there instructions on the date and time to make sure you had the same date and time that was file stamped from the work sheet or were they instructed to use the time and date from the computer itself?

HEBERT: It was instructed to match the work sheet, because it is the official time of the filing and that becomes very important especially on the first day and the last day of filing. This was a very unusual year, because we had an extremely heavy turnout for an off year election and we filed I think 500 and some odd people the first day and they're standing out in the hallway waiting so we wanted to make sure that we get them through as quickly as possible.

WITT: Were there any other glitches you noticed in the program beyond just the time between 12 and 1 coming out as XM?

HEBERT: No other than what I've stated in that you've put in the wrong time or no time.

WITT: We've also found some in here that the work sheet is file stamped with a certain date and then the declaration of candidacy actually shows a different date. Ken Jacob is sitting here, I notice his work sheet is file stamped on February, looks like 8 at 10:11 a.m., and then his declaration of candidacy is March 10th at 10:11 a.m., so we've got even a February to March difference, can you explain how that might

have occurred?

HEBERT: No, other than the time sheet. I mean the work sheet is the official work as to what the time and date should be. I would have to look at the file itself, the record to see if it matched.

WITT: If I showed you this would this help. I've got both the work sheet and the declaration here would that . . . ?

HEBERT: No, I think I understand what you are saying. There's a month difference between the worksheet and the declaration and, no, I don't have an explanation for that other than I would guess that the information that was put into the computer was put in as March and the information on the work sheet was written down as February.

WITT: Well, the information on the work sheet is not written it is actually file stamped. Representative Jacob is here do you recall which date you . . . ?

REP. JACOB: No I don't, but I thought it took a long time to file. But it wasn't quite a month.

WITT: There are several here, Paula Carter has filed stamped February 5, and the actual date on the candidacy nomination is March 7th. There is some significant differences in dates, is that, I guess maybe we need to bring back the people that did the input on these to . . . ?

HEBERT: There may be a valid reason for it. If there was a delay before it was actually written, but as far as what I would know, if the declaration

was printed out with a different month, then if we look at the actual file it would tell us what month is in there currently and that should be the month that the declaration was printed. There are only two ways to do that, that is through going through the database and putting the date in or going through the word processing letter and changing the date on the letter.

WITT: Hold on.

HEBERT: Sure.

WITT: Can you think of any reason why anybody would need to take the candidate work sheet and file stamp it and then later fill out the declaration of candidacy or change the declaration of candidacy?

HEBERT: No, I can't, but then I'm not really involved in that part of it. So there may very well be a valid reason, but I would have no idea what it would be.

WITT: If I can, I'm jumping back over to you because yours is in there and you are here in the room.

JACOB: I just wasn't sure if I really whether I really wanted to file and Barbara Campbell . . .

WITT: Do you recall at the time that you went in with your work sheet, when that was, was that February or March?

JACOB: No, not the foggiest idea in the world.

WITT: Did you ever check the day after you filed to see if your name appeared on the list outside the Secretary of State's

door?

JACOB: Never did during the whole time to my recollection.

WITT: Boy, you're a lot different than I am.

JACOB: Feel more secure in my district than you are.

WITT: Probably.

JACOB: But let me ask you a question, wasn't it true that at the jury trial, that the jury was told there was no other mistakes, except for the one regarding Tim.

WITT: I don't know that.

JACOB: I think that's something that you ought to look at the trial, because if that's the case, obviously the jury got some information that was absolutely incorrect when the prosecuting attorney had all those records and still does.

WITT: Well, obviously the defense attorneys were given access to all of those too, but that's not, we're not here to debate that issue between you and I. Tim's was the only one that the candidate's signature was not on it, but that's not an issue. Are you aware of any situation where a person who was taking a filing might hold that filing till a later time, not file it at that time?

HEBERT: No.

WITT: Are you aware of any situation where somebody went back and took a filed declaration and made any changes to it later on?

HEBERT: No.

WITT: I think that's all I have at this time. Are there other questions? Rep. Shelton.

SHELTON: Mr. Hebert, where is your office?

HEBERT: It's over at the State Information Center.

SHELTON: You said you trained people how to use the computer?

HEBERT: Yes.

SHELTON: How many people were they from this office or down at the Information Center?

HEBERT: No, from the Capitol Office, Juli Rodenburg, Barbara Campbell, Nadine Barrows and I trained Greg Kindel as an alternate.

SHELTON: Who is he?

HEBERT: He's, he works for Carolyn Smith on the first vote and he has since taken over the news media part of the office.

SHELTON: In your the training did you teach them how to use this special key where you changed the times . . . ?

HEBERT: I showed them that, yes.

SHELTON: Four people?

HEBERT: Yes.

SHELTON: During trial, you said you couldn't find any document pertaining to the 21st?

HEBERT: That is correct.

SHELTON: Did anybody ask you to look for that or . . . ?

HEBERT: They asked me first but then I don't keep the printouts. The Elections Division keeps the printouts, but I did not find anything on the 21st.

SHELTON: Okay, these same four people had the password to enter the computer.

HEBERT: Yes.

SHELTON: And the last question I have is, you know if you made an entry into the computer to make a document wouldn't that document be, show up on the hard drive?

HEBERT: Yes, the document would go into the database on the hard drive and stay there until it's deleted, and in fact stay there for a while until after it is deleted.

SHELTON: You would delete it from the hard drive?

HEBERT: Yes.

SHELTON: So Tim's filing that showed up on the 29th, it had been deleted from the hard drive?

HEBERT: Yes, it had.

WITT: The 29th or the 21st?

HEBERT: The 29th.

SHELTON: What about the 21st, could you determine if it had been deleted from the 21st?

HEBERT: We looked for on the 21st and there is no record of the 21st, but perhaps, I should explain. If you delete a record it stays there for awhile until another record comes and over lays it. The time frame we are talking about is the 21st

through the 29th, which is roughly 8 days. Therefore, if something were filed on the 21st it wouldn't necessarily have to be deleted, it could, the record would be out there, you could go into the record and change whatever you needed to change and it would appear on the hard disk as being filed on the 29th. Okay, let's assume the other way, let's assume there was one on the 21st and it was deleted, it might be out there 8 days later or it might not because something else may have taken its place. Now when I was looking at the file, we are talking about a lot later, we are talking in June because Tim stepped down I believe in June the 22nd and about that time we start our process of certifying so then they would have probably deleted him within the day or two of his resignation. So, therefore, the filing on the 29th would have been out there probably because there hadn't been enough added at that time to overlay that record.

SHELTON: That's all I have, thanks.

WITT: Further questions, Representative Wible.

REP. WIBLE: At any time other than between 12:00 p.m. and 12:59 p.m. and 12:00 a.m. to 12:59 a.m. there is no time that would print out XM?

HEBERT: Unless you didn't put anything in it or you made a mistake.

WIBLE: Unless, you didn't put anything in it?

HEBERT: If you put nothing in the time, it would print out an XM, because that's not a valid time for the computer.

WIBLE: Or if you put in a time that doesn't exist it would have?

HEBERT: Right.

WIBLE: Would you go through again the times that which "record not found" would appear for the date?

HEBERT: The same situation occurs there, that if you put in nothing, the computer doesn't recognize nothing as a valid date or if you put in for example 32 for the day, it wouldn't accept that either.

WIBLE: Are there any restore programs. I am sure that's not the proper terminology, but I've heard of programs where you can go back and recreate something that has been deleted, was that not possible with this software?

HEBERT: To my knowledge it is not, now there are utilities there like Norton utilities and those type of things that do recover lost data, but if in fact, let's say this table is a hard disk and my hand is where that record is stored, if in fact it is deleted it is still there, but if in fact another record is added, put on top of that, then as far as I know there is no utility or software package in the world that could tell you whether that was there originally or not. You would have to probably create a conscious audit trail for that to be possible.

WIBLE: Are most programs designed that way, where if you have deleted something you can go fill in those spaces, in order to save disk space?

HEBERT: It depends on the designer as to how you want to

do that. In my case obviously this is the first time this has happened in the 8 years that I've been with the Secretary of State's Office and in this case, I would prefer not to have old files and records around, because it is very confusing. There are a tremendous amount of mistakes that are made, clerical errors I have seen, and don't get me wrong, but I have seen candidates come in that don't even know what Ward or Precinct that they vote in. So you know, you have to allow on the computer part as much flexibility as possible, and again, I am not the final determination authority for what I'm about to say, but to me it seems reasonable that the work sheet and the declaration should match and if they don't then something is not quite correct. Now you may get some variations this year in addition to being a very heavy filing year, there have been a tremendous amount of withdrawals, so forth like Senator Wiggins dying, so they reopened certain races, not Wiggins excuse me, you know who I'm talking about, Merrell. So it has been a tremendously heavy year for all kinds of traffic on the computer.

WIBLE: It seems to me and maybe there is something I'm not picturing here, but in order to have the work sheet and the declaration matching to the minute on the time that you would have to do them simultaneously and maybe I haven't listened to the testimony that carefully, but it appeared to me that if they stamped the work sheet first and then they went over to the computer and did the declaration and I don't quite see how they would always have an identical time?

HEBERT: Because they physically put in whatever time that they want.

WIBLE: Okay, that's right, I keep forgetting that one important point, they put in the time. If there were a record entered that had been deleted, for example on March 21st a record were entered but it had been deleted and nothing had been overlaid on it at that point someone went back into the computer, how would they pull up that deleted record that was still available?

HEBERT: They wouldn't. They wouldn't. You would have to know a lot more than the average person knows to do that. I can tell because there is what's called a scanner and it's a program that comes with the software package, the Clarion, that you can actually look in the file and physically see that record and it will give us the status whether it is active or deleted.

WIBLE: And, then you think that you are one of few people that know how to do that?

HEBERT: Well, I wouldn't say few, but one of more than your average office worker would be, yes.

WIBLE: Did you train any of the employees how to do that?

HEBERT: No, not how to look on the scanner, no. I instructed them as to how to enter the information and create the declaration.

WIBLE: Is there anyone else within the Secretary of State's Office that you are aware of who knows how to do that?

HEBERT: You mean look in the file and see the deleted record?

WIBLE: Pull out.

HEBERT: No, not that I'm aware of.

WIBLE: If someone were to pull it up, though, they could change it in any way, for example, they could change the date, is that correct?

HEBERT: Yes, that is correct.

WIBLE: Then what would happen to it, how would they make it a current record rather than a deleted record?

HEBERT: Well, maybe I should step back a moment. If you delete a record, it's deleted. You would not bring that back up. At that point in time you would insert a new record. Now once that record was in the computer you could bring that record up at any time and change it any way you want to.

WIBLE: But you could not bring, even you, could not bring back a deleted record, change it, and make it somehow a current record?

HEBERT: Probably not.

WIBLE: That's all, thank you.

WITT: Representative Gaw.

REP. GAW: Thank you, Mr. Chair. Hal, you've seen this one exhibit I'm sure that was used in the trial and has the XM designation on it, on Tim Moriarty's on the declaration that has his name on it anyway.

HEBERT: It's got his name on it but not the election official?

GAW: That's right. It says "record not found O". I'm just curious why that zero or O is there, by the way?

HEBERT: No, that's just the way that Clarion defaults for its default format and what it does is it, you put in a 12 for example and it goes out, looks for that number, and translates that into words and if it doesn't find it, it says "record not found."

GAW: When you say if it doesn't find it what do you mean?

HEBERT: There is a separate file that has the words like for the numbers for example, 1st, 2nd, 3rd, etc. It also has the words for the month, January, February, March. So if I entered 1-10-1994, for example, it would go out to this file and look for number 1 which would be January, it would go down and look for 10 which would be 10th and it would take that and put it in what's actually a merge file as the word not the number so that when the declaration prints out, it prints out filed on the 21st day of March, January or whatever.

GAW: Okay, so as long as there is a date entry, that doesn't come up on "record not found"?

HEBERT: A valid date entry, yes.

GAW: What do you mean? You keep saying "valid date."

HEBERT: "13" is not a valid month.

GAW: All right. Does it have anything to do with being within the filing period or not?

HEBERT: No.

GAW: So there is no restriction

on that part, if somebody had filed and put in May 19 even though the closing is already run, it would have still shown that date.

HEBERT: Yes.

GAW: Okay, so, and if you don't enter anything is there a way that the computer will print the current date on the computer in that slot?

HEBERT: No.

GAW: But it will do the time, but it won't do the date?

HEBERT: No, either the time or the date. If nothing is entered you should get an error.

GAW: How do you use the computer's date?

HEBERT: If you want to use the computer's date, which I don't think was used, you hit the F1 key and it will put the date in the merge file for you, actually in the database file for you.

GAW: So that's an automatic function if the individual chooses to use it, correct? Okay, and the same way with the time?

HEBERT: Yes, yes.

GAW: In regard to the XM designation that would come up if someone were implanting nothing or an incorrect or is not a valid time? What do you mean by that?

HEBERT: For the time.

GAW: So if they said, you are no longer using military time if you had 13:02 or in this instance probably after 12, since the computer wasn't recognizing anything after 12?

HEBERT: Correct.

GAW: That's why you had this XM designation on 12:01 up to 12:59, because the computer thought it should stop at twelve?

HEBERT: Well, yes. Correct.

GAW: So the XM designation then would come up also when there was nothing placed in there?

HEBERT: Correct.

GAW: And you've seen this document, haven't you, that ... ?

HEBERT: If that's the same one they had a trial, yes.

GAW: I've been told that. It has the signature of Tim Moriarty at the bottom but no signature of an officer accepting a declaration below it. Is there any way from you looking at this, that you can tell at all when that document was generated?

HEBERT: Not from looking at that document, no.

GAW: Is there another way you could determine it?

HEBERT: No, there is a probable determination, okay, but not for a specific document. In the file when you add a record, like I said before, Clarion just goes through whatever. The document that I saw, that was Tim Moriarty's that was filed on the 29th at 1:19 was in slot 545. The one preceding that was dated June the 22nd.

GAW: The one preceding that?

HEBERT: In slot 544, the candidate in slot 544 was dated

June the 22nd, but all the slots above that for quite a ways from about 11:00 in the morning on the 29th and all the slots after that until 2:00 or more in the afternoon were all dated the 29th. If in fact Clarion puts records in 1, 2, 3, 4, 5, etc. then the record surrounding Tim's record were all dated the 29th, so I would think logically that who ever filed that record on the 29th.

GAW: Would file it indeed on the 29th?

HEBERT: Yes.

GAW: And not on some other date?

HEBERT: Well, that particular record, no.

GAW: Again when was it when you made the search for anything that would have been filed on him on the 21st? What date was that, do you recall?

HEBERT: Well, it would have been, it would have been fairly recently because just prior to the trial because the Prosecutor's investigators came over and we were looking at the file at that point in time.

GAW: And that's the first time anyone had done the search?

HEBERT: As far as I know. Of course, the prosecutors confiscated the equipment at the Capitol approximately June the 23rd or thereabouts and they had obviously done some experimentation with it because it came back with a president and vice president candidate, so they obviously been thoroughly testing it out.

GAW: Now this declaration that has the XM on it that we have been referring to, did I understand you to say that someone could copy the program off of the system at the Secretary of State's Office and take it home with them?

HEBERT: Yes.

GAW: If they had done that what information would have gone with that software?

HEBERT: Well, there is a software that is necessary to run the program. There was WordPerfect, there were the filing file itself (End of tape #1) and some binary files and in order to recreate that document at home they would also have to have a printer, if it was equivalent to a printer with the same fonts.

GAW: A laser printer would have, would that have been equivalent?

HEBERT: If it had the same fonts, yes.

GAW: Would that have been an unusual kind of printer?

HEBERT: No, it's an IBM, it's a very standard model.

GAW: What type of a system would you have to have to run this computer at a minimum?

HEBERT: DOS with a, I can't tell you how much memory, but a MS-DOS computer with enough disk space to handle about, say, 15 megs would do it.

GAW: So not a very complex system.

HEBERT: No.

GAW: Would a 286 run it?

HEBERT: Sure.

GAW: How many of, have you ever seen any of these "record not found" documents generated for other candidates that have been stated to be the declaration form?

HEBERT: No, I personally haven't, but again normally I don't work in that area.

GAW: I understand. Would it be something that you would have given instruction on to the individuals that you instructed about how to handle that it that would come up or how to avoid it coming up?

HEBERT: I doubt it. I wouldn't have thought of that at the time I was training them. However, I am sure that knowing the people that were creating these I would have gotten an immediate phone call saying, "Hal, come help me."

GAW: And you would have told them what?

HEBERT: I would have told them that it was just either what I have been telling you, either you put in the wrong date or no date.

GAW: That's all I have.

RICHARDSON: Just a couple a few questions. So the way this document would could have been generated on that unit up there in the Secretary of State's Office is that they would have filled in the name and all of this information and then just hit an enter key or whatever key auto advances through the date and time and then punched print?

HEBERT: More or less, yes.

RICHARDSON: So if they had entered, let's just assume that Barbara Campbell on the 21st had entered all this information in, when she got down to this part instead of typing in the time, excuse me the date she just punched enter and it passed through that block to the time, she punched enter again, it passed through that and then she punched print, she could have printed this off right up there in the office?

HEBERT: Correct.

RICHARDSON: If she had wanted to put a specific date and time she would have typed that part in?

HEBERT: That's correct.

RICHARDSON: So there's not anything that is peculiar or unusual about this. In fact this is very predictable that this could be printed off today right up there on that same system, just by failing to type the date in and failing to type the time in?

HEBERT: Yes.

RICHARDSON: You trained Nadine, and Barbara and Judi and who was the fourth?

HEBERT: Greg Kindel.

RICHARDSON: Did each of them have their own password or was there a single password that they all used?

HEBERT: No they all had their own password; However, that is a local area network up there so once you are on you can get wherever you want to go.

RICHARDSON: You have to have a password to get into the system. Once you are on the

system, its like having a key to the grocery store. You can go to any aisle you want, once you get into the store?

HEBERT: Exactly.

RICHARDSON: How many passwords are issued for people in that office up there?

HEBERT: Each person that worked in the office had their own password.

RICHARDSON: And did that include Judi Moriarty?

HEBERT: No, I don't think Judi has ever even been on a computer that I know of.

RICHARDSON: So she wouldn't even be able to get into it?

HEBERT: Not unless she knew the passwords, yes.

RICHARDSON: You didn't train her on this program?

HEBERT: No.

RICHARDSON: The election filing program?

HEBERT: No.

RICHARDSON: And Mr. Wiseman said he didn't train Judi, so I guess its safe to assume that she didn't even know how to operate the system, number one, and number two she didn't even have a password to get into it.

HEBERT: That would be my assumption as well.

RICHARDSON: If someone were going to steal this software and take it somewhere else and create a file, they would have to know quite a bit about how to

down load those four different components onto a disk, wouldn't they?

HEBERT: Yes, they would have to know more than the average person.

RICHARDSON: You would have to download Clarion, and WordPerfect, and the spreadsheet?

HEBERT: Not spreadsheet. You would have to have the fonts that go with WordPerfect. You would, there are a couple or three binary files that your average person wouldn't know about. However, you could do it if you simply knew where it was. You could do it by simply copying every one of the files in a certain directory.

RICHARDSON: But that would take some knowledge about computers that the average person wouldn't have.

HEBERT: That's probably correct.

RICHARDSON: To your knowledge, certainly the Secretary of State doesn't have that knowledge?

HEBERT: That is also correct

RICHARDSON: With regard to the 21st, if a record was put in on the 21st and then it was deleted out later that same night and then filing continued the 22nd through the 29th and if the Clarion program does randomly search for an empty space, so that it can keep the information compressed as much as possible,

HEBERT: Right.

RICHARDSON: then it would be

likely that sometime between the 21st and the 29th that that slot would be filled considering the fact that they filed a lot of additional people during that eight day period. In fact, if you didn't have a lot of deletions you would have a lot of slots to fill and it might very well be likely that the first filing on the 22nd would have filled that slot.

HEBERT: That's very correct.

RICHARDSON: And once that slot is filled then there is no way to go back and . . . ?

HEBERT: Not that I'm aware of, no.

RICHARDSON: Would it be your opinion that more likely than not given the scenario that we had and the situation that we had its more likely than not that if the slot was there it would have been filled?

HEBERT: I would say, yes, it would have been.

RICHARDSON: I don't have any other questions. Thank you.

REP. SHELTON: Earlier we heard testimony that the only way this computer would produce this not found record would be it would have to be done at the noon hour, weekends and after 5:00 o'clock. Based on what you said that is not true, because the people knew how to put in the time, you had trained them how to put in the time, so they could put in anytime, anytime?

HEBERT: I'm a little confused, but I think what you are saying is correct. They can put in any time that they want to put in, yes.

SHELTON: But it is not necessarily that the computer would produce the not found record, on weekends or after 5:00, they could . . .

HEBERT: No, it would not produce it at time.

SHELTON: Now, let me ask you, did you delete Tim's file?

HEBERT: No, I did not.

SHELTON: Do you know who did?

HEBERT: I don't even know if someone did.

SHELTON: Are there any people who work in the Secretary of State's Office upstairs who you would describe as computer literate?

HEBERT: I would describe all the people up there as moderately computer literate.

SHELTON: What about Jim Kolb?

HEBERT: I've never seen him use a computer.

SHELTON: Okay when Tim was here he indicated that Charles Campbell was helping him with his campaign and he was doing some stuff for him on his computer over in Columbia or wherever he lived. Do you know of his knowledge of computers?

HEBERT: Of whose?

SHELTON: Charles.

HEBERT: He seemed to, I wouldn't put him on my level, but he was literate.

SHELTON: What about Barbara and Nadine, were they computer literate?

HEBERT: Barbara did pretty well. Nadine is slightly lower leveled but she gets along okay.

SHELTON: What about this scanning stuff that you say only you had the knowledge, would it be possible that Charles Campbell or Kolb or the Director of Elections knew how to do that?

HEBERT: The word possible of course, but probable, probably not. Mr. Kolb, like I said I have never seen him use a computer in our office, ever, so I have no idea what level he would be on a computer. I would say probably no one in our office would know how to use a scanner. No.

SHELTON: Even Charles Campbell?

HEBERT: I don't think he would, no.

SHELTON: Okay, thanks.

RICHARDSON: One more question just so that I make sure I have it clear in my mind. If Judi Moriarty were inclined to want to go into the office sometime when no one were there and generate a document like this one, would she have in your opinion, would she have the access to that program or the knowledge of how to manipulate the program so as to produce a document?

HEBERT: In my opinion?

RICHARDSON: Yes.

HEBERT: Probably not.

RICHARDSON: Thank you.

WITT: Representative Gaw.

GAW: I want to go back to something you were saying awhile ago about how you had that June 22nd date in the middle of the 29th filings? Did you look at the 21st filings?

HEBERT: No, I really didn't. Not too long ago, since all this came up, I went through and looked, I did a scan, you can scan get into a particular slot we will say and look for a given date or whatever and I just kind of paged through and there were some 3-21's out there but I didn't really . . .

GAW: Was there a block of 3-21's in one area?

HEBERT: I don't think so. I couldn't say for sure, but I don't remember seeing a whole bunch of 21's out there.

GAW: 'Cause you were saying earlier that there was a block of 29s?

HEBERT: Yes.

GAW: But you don't think there was a block of 21s?

HEBERT: I don't remember seeing them, no, but that's not to say that there wasn't.

GAW: Okay. Thank you.

WITT: Did you when you trained the employees on the system, train them how let's say they printed out a declaration of nomination there were some problems with it and how to delete that entry and do another one, so the employees you trained would have known how to delete an entry and how to create another one or delete it completely if they needed to?

HEBERT: Yes, they should have.

WITT: I don't think I have anything further, it doesn't look like anybody else does. Oh, Connie, I'm sorry.

WIBLE: Specifically did Barbara Campbell know how to delete?

HEBERT: I would think she would, yes.

WITT: And would Nadine Barrows know how to delete also?

HEBERT: Yes.

WITT: I believe that is all we have, we would appreciate it if you would be available if we do need to recall you. I don't think we will need to, but if we do give you a call, if you could be available to come back and give us some further information.

HEBERT: Do you want me to stay in this building?

WITT: No, you can go back to work and we will give you a call if we need you. Let's take a five minute break.

• RECESS •

WITT: Would you raise your right hand? Do you solemnly swear or affirm the testimony that you shall give in the hearing now pending before the committee, shall be the truth, the whole truth, and nothing but the truth, so help you God?

JULI HAYNES RODENBURG: Yes.

WITT: Will you tell us your name and where you live?

RODENBURG: Juli Haynes Rodenburg. I live in Jefferson City.

WITT: And what is your occupation Juli?

RODENBURG: I am an aide in the Secretary of State's Office.

WITT: How long have you been in the Secretary of State's Office?

RODENBURG: I worked in, I've been employed by the Secretary of State since September of last year. And I started in the Corporation Division at the Missouri State Information Center and I've been an aide in the Capitol Office since approximately January of this year.

WITT: So you have been working here in the Capitol office since January?

RODENBURG: Yes.

WITT: Where is your office within the complex upstairs?

RODENBURG: I sit at the back desk as soon as you enter the outer office.

WITT: Okay so its the big outer office that had two or three desks there?

RODENBURG: Yes.

WITT: Were you there working during the filing for this last election?

RODENBURG: Yes.

WITT: And did you do any of

the filing yourself?

RODENBURG: Yes.

WITT: Approximately how much of the filing did you do? Just on a guess, I know you can't be exact.

RODENBURG: An equal amount as any of . . .

WITT: About a half or a third.

RODENBURG: Right.

WITT: Tell us about how the filing worked. If I came in to file what happened?

RODENBURG: The prospective candidate would come into our office and some would have a paid receipt from their party. If they did we would go ahead and have them fill out a candidate worksheet. At that point, if they did not have the paid receipt, we would find out what they were filing for, get the fee from them and fill out a receipt from their respective party. They would fill out a candidate worksheet and we would enter that information into the computer. We would print out an affidavit. We would have them look at the affidavit to make sure that that information was correct, and if so they would sign the affidavit and we would sign after the candidate had signed and if they wanted a copy we would make a photocopy for them.

WITT: Were you working on March 21st?

RODENBURG: I believe so, yes.

WITT: Do you recall Tim Moriarty coming into the office on that day indicating he wanted to file for office or filing

for office?

RODENBURG: I recall seeing him in the office. I don't remember the exact date, but I remember seeing in the office.

WITT: Was is around the 21st?

RODENBURG: I would say so, yes.

WITT: On the 29th, which was the last day of filing, I know that's a pretty hectic day for you all, do you recall seeing Tim Moriarty in the office on the 29th, that last day of filing?

RODENBURG: I don't recall.

WITT: If the time you saw him you said you weren't sure of the date, the time you saw him in the office, could it have been the 29th the day you saw him there?

RODENBURG: It could very well have been.

WITT: But you don't recall exactly when?

RODENBURG: I don't recall the exact date.

WITT: What do you recall about being in the office when he came in?

RODENBURG: I remember him coming into the office and doing what I thought was filling out his candidate worksheet and filing as a candidate. He was at the desk in front of mine with Barbara Campbell at the computer. I didn't see the actual papers. He was dressed up, had a sport coat on, I believe a tie and I haven't seen him dressed up a whole lot and I was under the impression that he had filed.

WITT: Did you hear any conversation between the two of them?

RODENBURG: No.

WITT: So you weren't really paying attention to them at all?

RODENBURG: No.

WITT: Where was the Secretary of State during this time?

RODENBURG: I don't know.

WITT: You didn't see her at that time?

RODENBURG: I don't recall that, no.

WITT: After he had filed out the paperwork, do you recall any conversation about holding the paperwork or not filing it at that time

RODENBURG: No.

WITT: Do you recall whether or not Tim went back to his mom's office after that or he left or what occurred after that?

RODENBURG: I don't recall that.

WITT: After he had been in, whatever day it was, do you recall any other conversations around your office about his paperwork, about it being held or any other comments about his paperwork after that time?

RODENBURG: No.

WITT: So nobody was really discussing his filing?

RODENBURG: No.

WITT: Did you ever become aware that there may have been

a problem with his filing?

RODENBURG: The only time that I was aware that there could be a problem was when the Secretary requested a copy of his signature and I got that faxed over from the Elections Division and it wasn't signed.

WITT: Okay, she requested a copy of his signature?

RODENBURG: Yes.

WITT: Okay. And do you know why she was requesting a copy of his signature?

RODENBURG: No.

WITT: And that was what she was looking for was actually his signature on a document, is that correct?

RODENBURG: Yes.

WITT: And how did you go about trying to obtain his signature?

RODENBURG: She said that I might call elections and get a copy of his affidavit. So I called the elections division and spoke with Margaret Freeman and she first faxed a copy of the candidate worksheet and there is no signature on that worksheet. I took that to the Secretary and she said, "This is not what I need; I need his signature." So I called Margaret and said I need the actual affidavit and she said, "It's not signed," and I said, "Well go ahead and fax it anyway." So she faxed the document to me and I delivered it to the Secretary.

WITT: Okay, and did you point out that it wasn't signed at that point? What was her . . . ?

RODENBURG: Yes.

WITT: What was her reaction?

RODENBURG: She asked me, "Why is this not signed?"

WITT: What did you do with it at that point or what did she do with it at that point?

RODENBURG: I said, "I don't know I'll try to find out." So I left her office. I was back in the Secretary's Office. I left her office and I believe I met Barbara Campbell in the hallway right outside Carolyn Smith's office and I don't recall if I asked her why, you know I told her that the document was not signed and she said what should we do, something along the lines of what should we do and I said I would suggest that you call, Gene or Joe or contact someone in Elections.

WITT: Okay. Did you do anything else in regard to that document?

RODENBURG: No.

WITT: Did you ever call Tim and tell him that you needed to come in and sign that document?

RODENBURG: No.

WITT: Did you ever hear anyone call Tim and tell him that he needed to come in and sign the document?

RODENBURG: No.

WITT: Did you ever hear anyone instructed to call and tell Tim to come in and sign the document?

RODENBURG: No.

WITT: Did you ever hear

Barbara Campbell instructed to sign the document?

RODENBURG: No.

WITT: What was the next thing that you recall in regard to that document? Was there further discussion about it around the office?

RODENBURG: No, I don't recall anything further.

WITT: Up until the investigation?

RODENBURG: Correct.

WITT: Did you have any conversations with Barbara Campbell about why the signatures were not there or how they came not to be on that document?

RODENBURG: No.

WITT: Did you ever hear her have any conversations with anyone else about why the signatures were not on that document?

RODENBURG: No.

WITT: Was there ever a time that any candidate came and filled out the documents but asked them to be held so that they could be filed later?

RODENBURG: Not to my knowledge.

WITT: Did you ever hold any documents for a candidate? Not to file until late?

RODENBURG: No.

WITT: Was there ever a time that a document maybe dated on a different day than the

candidate appeared in the office?

RODENBURG: Not to my knowledge.

WITT: There are a number of candidate declarations that we've found that have a file stamped date, the worksheet is file stamped, and all of these dates are toward the beginning of February that are filed stamped but the candidate declaration and the sheet where they paid, their receipt for where they paid their money to the party, are dated in March in the beginning of March. Was there a time that you recall the file stamp machine that they were put into would have been incorrect in any way?

RODENBURG: Not that I was aware of, no.

WITT: I know that we've got several here. There's one was dated February 6 at 4:54 and the declaration itself is March 8th at 4:54 and the receipt of the money is dated March 94 and there are several of those and they are all around the beginning of March. The actual declaration and all of the file stamped dates are dated the beginning of February and it looks like they're two days off, like the file stamp is the 7th, the other is the 9th, but yet the times all match, do you, are familiar with it?

RODENBURG: I was not aware of that. It would seem that the file stamp didn't get forwarded to the next month, but I was not aware of that, no.

WITT: So you had to actually forward that file stamp to the next month?

RODENBURG: Yes.

WITT: So if it were reading February the 6th and it were actually March the 8th, I guess it would be two days difference because of a 30 day month versus a 28 day month?

RODENBURG: Correct.

WITT: I notice one of these, Frank Martin, the 21st District, looks like you did this. Is this your signature? (Hands document to Rodenburg)

RODENBURG: Yes.

WITT: And it's March 9th, 1994, 12:10 p.m. When you look at his paperwork that is filled out, it says February 7th, 12:10 p.m., do you recall seeing this problem with the meter?

RODENBURG: No.

WITT: Did you use this date when you were filling out, when you were entering the information into the computer. Is this the date you looked at or how did you?

RODENBURG: You didn't look at a date, when you filled out, you just pressed one key and that date was already programmed into the computer, we didn't look at the date.

WITT: So you used the F1 key and you used that every time?

RODENBURG: Correct.

WITT: Now what about the time?

RODENBURG: The time I would look off the stamp.

WITT: So you were just paying

attention to the time on this and not necessarily the date, is that correct?

RODENBURG: Correct, I don't believe I ever manually put in a date.

WITT: What about the times? I notice this one is 12:10 p.m. There was a problem I understand with the computer that if you typed the date between 12:00 and 1:00 it would come up with XM?

RODENBURG: Yes.

WITT: Can you explain why this one is 12:10 but doesn't have an XM, did you . . . ?

RODENBURG: I didn't have the capability to change that. I believe Mr. Hebert was working on that. I mean he knew that there was a problem with the XM's coming out. Now how he changed that or fixed that I have no idea.

WITT: Well now, this is actually the one that has the signatures on it, so it would be difficult to change it on the document, unless it came out of the computer this way when you printed it out?

RODENBURG: Right.

WITT: So you don't know why the date actually came up on this one as opposed to some of the other ones?

RODENBURG: I have no idea. I have no idea.

WITT: Did you ever manually type in a time? You manually typed in the time on every one is that correct?

RODENBURG: Off of the

candidate worksheet, yes.

WITT: Okay so you used this time and you typed it in manually and on this one it came up correct when some of them didn't?

RODENBURG: Yes.

WITT: Did you ever have an occasion to call up or print out a candidate declaration where it came up and instead of a date it came up with "record not found"?

RODENBURG: I don't believe I recall that.

WITT: Once you printed them out did you always look back and check the date and time and make sure everything was correct on the sheet?

RODENBURG: On the affidavit?

WITT: Yes, on the declaration sheet itself.

RODENBURG: Yes, before the candidate signed I had him or her to look over that and make sure that all that information was correct.

WITT: Was there ever a time a candidate, when they looked over it, that the candidate saw the XM and pointed it out and said this looks like it's a problem?

RODENBURG: There could have been, yes.

WITT: Do you recall that?

RODENBURG: I don't recall any specific one, no.

WITT: I think that's all I have, are there other questions?

Representative Richardson.

RICHARDSON: Tell me a little bit about this time clock or this time stamping clock. Is this used just for filing or is it used for other things?

RODENBURG: As far as I know it's used only for filing. I believe it was brought from the elections division.

RICHARDSON: It was brought and left over there just for this purpose? It's not used on corporate filings or any other type of filings?

RODENBURG: No, not to my knowledge.

RICHARDSON: If you didn't roll it over from February to March, then it would just start repeating itself, is that right?

RODENBURG: Yes, any time that it came unplugged also we would also have to reset it.

RICHARDSON: But if it had come unplugged it wouldn't work at all?

RODENBURG: Correct.

RICHARDSON: There are several of these that are off and they appear to be off by, maybe, it's 32 days on each one of them, but I'm sure that during this same period of time there were other filings that took place during this seven, or eight or nine day period other than these five. Can you explain why these five would be off by 32 days, but the other filings that took place during that same period of time would not be off?

RODENBURG: No.

RICHARDSON: You and

Nadine and Barbara did the filing?

RODENBURG: Yes.

RICHARDSON: With the exception of the first day and the last day, is that right?

RODENBURG: Yes.

RICHARDSON: And during the first day you had assistance from Joe and Gene and Margaret, is that right?

RODENBURG: Yes.

RICHARDSON: What was the first day of filing?

RODENBURG: Excuse me.

RICHARDSON: What was the first day of filing?

RODENBURG: February 22, I believe.

RICHARDSON: Kind of day you would remember because of the long lines. Were there any times other than the first day of filing when Mrs. Freeman came to the Capitol and assisted you?

RODENBURG: I don't believe so.

RICHARDSON: Do you have any idea why she would have certified Representative Jacob's signature on the 10th day of March? That's kind of right in the middle of filing?

RODENBURG: I have no idea.

RICHARDSON: Or Paula Carter, Representative Carter's on the 7th day of March?

RODENBURG: I have no idea.

RICHARDSON: Or Dale Shapers on the 8th day of March, you don't recall her being in the Capitol at all those days?

RODENBURG: No.

RICHARDSON: Juli, in your sworn statement you had indicated somewhere in there you resented not being included in a private conversation that Barbara had with someone about Tim's filing. Could you tell us more about that?

RODENBURG: I recall after, I am assuming that it was right after Mr. Moriarty had done what I thought to be filing for State Representative. I recall Barbara Campbell talking with someone very quietly about what I have no idea and I was assuming it to be about Mr. Moriarty's filing.

RICHARDSON: And you assumed that because the timing?

RODENBURG: Correct, because he had just left from the desk doing what I thought was filing as a Representative.

RICHARDSON: Was he out of the room when that private conversation took place?

RODENBURG: I don't recall.

RICHARDSON: Do you know who the private conversation was with?

RODENBURG: No, I don't.

RICHARDSON: Was it with one other person or more than one?

RODENBURG: I do not remember.

RICHARDSON: But you remember that she had some sort of little huddle and was whispering?

RODENBURG: She was standing at the desk that she had been working at, the desk right in front of me. She had stood up from that desk and was right in front of me and she was talking very quietly and I felt that if I were part of the filing process that maybe I should be aware of what was going on.

RICHARDSON: But you don't recall who that was that she was talking to?

RODENBURG: No, I do not.

RICHARDSON: Do you recall if it was just one person?

RODENBURG: No, I don't.

RICHARDSON: Could it have been more than just one person?

RODENBURG: I'm sure it could have, yes.

RICHARDSON: Was it Judi Moriarty?

RODENBURG: I do not recall, sir.

RICHARDSON: During this period of time that Tim was there, do you ever recall seeing Judi in the front office out there where you do the filing?

RODENBURG: I don't recall a time.

RICHARDSON: Well, Juli, it seems a little bit strange to me that you specifically remember there being a private conversation and that you resented it, but that you don't

remember who it was with or how many people were there or whether it was the Secretary of State or not, I'm having trouble with that.

RODENBURG: I don't recall.

RICHARDSON: The only reason you believed it to be in regard to Tim was because she had just apparently finished his filing procedure?

RODENBURG: That's correct.

RICHARDSON: Were you filing someone else at that time or were you doing other work, what were you doing?

RODENBURG: I was at my desk. I don't recall what I was doing.

RICHARDSON: Do you recall if there were any other candidates in there for filing at that time?

RODENBURG: I don't recall.

RICHARDSON: Do you recall what time it was?

RODENBURG: I don't recall. I would say that it was late morning, possibly early afternoon.

RICHARDSON: What hours do you work?

RODENBURG: 8 to 5.

RICHARDSON: Do you always get out of there promptly at 5 or do stay late sometimes?

RODENBURG: During session we stay late quite a bit, during interim, mainly 8 to 5.

RICHARDSON: At 5:00 whether you are still working or not do you lock the door?

RODENBURG: Often times we close the door, yes.

RICHARDSON: The office is officially closed even though you may still be working?

RODENBURG: Yes.

RICHARDSON: But you don't remember this being after hours. This was definitely during the normal working hours of 8 to 5?

RODENBURG: Yes.

RICHARDSON: You saw Tim there more than once that day, is that right?

RODENBURG: He was in and out of the office, yes.

RICHARDSON: You saw him there maybe in the morning and then again, I think you said, maybe it was mid-afternoon. That what you said earlier.

RODENBURG: Yes.

RICHARDSON: Did you see what documents that he was working on or filling out or signing?

RODENBURG: No.

RICHARDSON: Did you ever see Barbara Campbell turn and input data into the computer while he was sitting there?

RODENBURG: No.

RICHARDSON: Or did you see or hear the printer generating a document?

RODENBURG: I don't recall that, no.

RICHARDSON: Did you see or hear any conversation between Barbara and Tim at the

conclusion of their meeting?

RODENBURG: No, I do not recall.

RICHARDSON: You didn't see her stand up as he was leaving and say, "Congratulations you're a candidate," or anything like that?

RODENBURG: I don't recall that, no.

RICHARDSON: And you don't recall Judi Moriarty ever coming into the room?

RODENBURG: No.

RICHARDSON: You didn't see which way Tim went when he left Barbara's desk?

RODENBURG: No.

RICHARDSON: Do you recall whether or not Nadine Barrows was there at the time?

RODENBURG: I don't recall.

RICHARDSON: Were some problems going on personnel wise about this time?

RODENBURG: Yes, I think so.

RICHARDSON: What were they?

RODENBURG: There was a lot of tension in the office. A few employees didn't get along very well, and just a lot of tension.

RICHARDSON: Who didn't get along with each other? Where was the source of the problem? Or the sources as is often the case?

RODENBURG: I think there was a little problem with Barbara Campbell and Marie

Gladbach. Barbara Campbell and Freda McKee. I didn't have a problem with anyone in the office, so I was often times just on the outside looking in.

RICHARDSON: Why was that?

RODENBURG: Well, I think that I was, my position I was mainly just a secretary for everyone in the office. I didn't work for anyone in particular to my knowledge.

RICHARDSON: So the problems that existed had different people on one side but always had Barbara Campbell on the other side?

RODENBURG: Yes.

RICHARDSON: Is that a fair statement?

RODENBURG: Yes.

RICHARDSON: What were the problems from these other people's perspective with Barbara Campbell? Did you ever overhear any conversations or observe anything or did they tell you anything?

RODENBURG: No.

RICHARDSON: Might help you identify what the problem was?

RODENBURG: No.

RICHARDSON: Was it substance or was it style or was it personality?

RODENBURG: My personal opinion would be, would be that it was style, but I don't recall any specific conversations with anyone on any specific instances or problems.

RICHARDSON: How would you describe Barbara Campbell's personality?

RODENBURG: She was very forward, very in control and wanted to be in control of various workings in the office.

RICHARDSON: Was it your understanding that when she was hired in that she was your boss?

RODENBURG: I was not at the Capitol at the time she was hired.

RICHARDSON: When you got there?

RODENBURG: I did not know who my boss.

RICHARDSON: You never worked with her there in the office?

RODENBURG: In the Capitol, yes, I did.

RICHARDSON: Was it your understanding when you started working there that she would be your boss?

RODENBURG: No.

RICHARDSON: Did she ever try to be your boss?

RODENBURG: Yes.

RICHARDSON: Was it your understanding that she was Nadine's boss?

RODENBURG: No.

RICHARDSON: Did she ever try to be Nadine's boss?

RODENBURG: Yes.

RICHARDSON: Did she ever try to be Mrs. Moriarty's boss?

RODENBURG: I don't know of any specific instances, no.

RICHARDSON: Were you privy or aware of any threats that Barbara Campbell had made to Mrs. Moriarty about resolving the power struggle or she would expose irregularities in the office?

RODENBURG: No.

RICHARDSON: You ever hear anything about that?

RODENBURG: No.

RICHARDSON: Did she ever make any statements like that to you?

RODENBURG: No.

RICHARDSON: What about Mr. Campbell. You said that you had some problems with Mr. Campbell, what were they?

RODENBURG: The only problem I had with Mr. Campbell was after this investigation started.

RICHARDSON: Okay. And what was that?

RODENBURG: He had called in and asked that some mail of his be sent to him or held back for him and I told him that I did not handle the mail and he asked questions on how it was handled and I felt that I wasn't at liberty to discuss that and he said something along the lines of isn't your loyalty with Barbara and I said, "No, my loyalty is with the Secretary; I work for the Secretary," and he wasn't too pleased with that.

RICHARDSON: Why would he assume that your loyalties would be with Barbara Campbell?

RODENBURG: I have no idea.

RICHARDSON: And he was trying to get information from you that you didn't feel was appropriate for you to divulge?

RODENBURG: I didn't have the answers he needed. I didn't handle the mail or handle the questions that he was asking about.

RICHARDSON: Was he asking you to try to find out the answer to those questions?

RODENBURG: I don't recall. I don't believe so.

RICHARDSON: Was he asking you to somehow run down and intercept mail for him that was coming to the Secretary's Office?

RODENBURG: I believe he said that his brother had forwarded a letter to him and wanted to know if I had seen it or if I could find that letter.

RICHARDSON: Were you aware of any particular problems between Charles and Secretary Moriarty?

RODENBURG: No.

RICHARDSON: You weren't aware of any threats or promises that he made about what would happen if she didn't resolve the power struggle in his favor?

RODENBURG: No.

RICHARDSON: I believe that's all I have, Mr. Chairman. Thank you.

WITT: I'm going to go back just a second. On the 29th, no, I guess, on the day Tim came into the office did you hear any discussion toward the end of the day about deleting information from the computer regarding his filing?

RODENBURG: I recall a conversation about if Tim has not filed we better get his name out of the computer, so he wouldn't be on the list that we ran at the end of each day to be placed on the wall outside.

WITT: Who made that comment?

RODENBURG: I don't recall who it was.

WITT: Do you recall who all was in that office at the time that comment was made?

RODENBURG: No.

WITT: Do you recall if the Secretary of State was in the office at the time the comment was made?

RODENBURG: No.

WITT: Do you recall if it was the Secretary of State herself who made the comment?

RODENBURG: No.

WITT: So there was some discussion. Did you see anyone follow up and actually do some deleting from the computer?

RODENBURG: No.

WITT: Are you aware whether or not his information was actually in the computer?

RODENBURG: No.

WITT: Do you know whether it was deleted on that day?

RODENBURG: No.

WITT: Later on the 29th the last day of filing did you hear any discussion about we better file Tim now or Tim's paper work needs to be put into the computer or anything about the filing on that day?

WITT: No.

RODENBURG: After the 29th or actually anytime after Tim came into the office did you hear anyone discuss anything about throwing away paper work of Tim's or getting rid of it or destroying it?

RODENBURG: No.

WITT: Did you see anyone delete any information from the computer regarding Tim Moriarty or destroying any documents or throwing away any documents regarding his filing?

RODENBURG: No.

WITT: Any further questions? Representative Wible.

WIBLE: I just have a little follow up about the time stamp machine. Can you adjust the date, can an individual change the date to any date they want?

RODENBURG: I believe so, yes.

WIBLE: Are they numbers that roll?

RODENBURG: I believe so.

WIBLE: You would stand there and adjust each individual number?

RODENBURG: Correct.

WIBLE: And then you could adjust it again. You could do one document and then adjust it again back to the current date?

RODENBURG: Yes.

WIBLE: Have you ever seen anyone do that?

RODENBURG: Not to my knowledge.

WIBLE: Who normally changes the date, when it's time to roll it to the next month?

RODENBURG: I believe, I don't recall ever changing it, but I believe Barbara and Nadine both changed it at times.

WIBLE: And on the first day of filing, it seems kind of amazing to me that the time stamp machine would not be looked at to determine that it was on the right date on the first date of filing. You know was there a routine in the office where everything got checked just before filing period opened or . . . ?

RODENBURG: But, this was the first time I ever did any filing.

WIBLE: But you were there at this time at this filing period, right?

RODENBURG: Yes.

WIBLE: Was there anything in the office that was done out of the ordinary to get ready for that opening file period?

RODENBURG: We all came in very early that morning, just decided who would be at what

computer and any last minute questions, but I really don't recall anything standing out.

WIBLE: Looking at the documents, I may be incorrect, but it was on the first day of filing, I guess, (End of tape #2) we don't have anything that shows they were not consistent the first day of filing, but then I believe the first day of filing is February 23, but later on then like by the fourth of March the time stamp machine was dated back in February, apparently, from some of these filing documents that we have before us, where the work sheets were stamped in February. I believe that we have got some documents that show, well we do have some that show the on the opening day for the time stamp machine that was dated the same day that the declaration of candidacy was dated which would have been, February 23rd, but then I've got a document before me dated March 4th the declaration of candidacy, dated March 4th and the candidate work sheet dated February 2nd. So I guess what I'm driving at here is that it appears that the time stamp machine was set properly when the filing period opened, because the documents that were dated on the first day were consistent but then later on some of the documents were not consistent and I'm making an assumption that somewhere the time stamp machine either when we moved into the month of March it either didn't get rolled forward or it got adjusted backwards at some point. If it did not get moved forward on the first day of March would that have been any one person's responsibility to look at that on the first day of the month?

RODENBURG: I don't believe so, no.

WIBLE: So it was not clear, if there was a machine that had to be manually dated in some way, whose responsibility that was?

RODENBURG: Correct.

WIBLE: It could have been yours or Nadine's or Barbara's?

RODENBURG: Yes.

WIBLE: Do you recall anyone ever noticing that the time stamp machine was dated improperly?

RODENBURG: No.

WIBLE: And to your knowledge you did not any time during the month of March roll it forward to catch it up?

RODENBURG: No.

WIBLE: That's all I have.

WITT: Representative Gaw.

GAW: Thank you, Mr. Chair. Juli, some time on the 21st you overheard someone saying something about making sure that Tim was not on the list, did I understand you correctly?

RODENBURG: I don't recall what day it was on. I do recall a conversation about getting Tim's name out of the computer if he was not a candidate so his name would not appear on the list that we posted outside the office on the wall.

GAW: Do you believe that was on the 21st?

RODENBURG: I really don't recall.

GAW: Was it before the end of filing?

RODENBURG: I would assume so, yes.

GAW: Okay and this conversation, where were you when you heard it?

RODENBURG: I was at my desk, I believe.

GAW: Upstairs here in the Capitol Office?

RODENBURG: Yes, at my desk.

GAW: And you don't have any recollection as to time of day or anything like that?

RODENBURG: I would assume it would be at the end of the day because that's when we normally ran a list, but I don't recall specifically, no.

GAW: Okay. Were you aware of the fact that, well first of all let me ask you, didn't that seem to be an unusual conversation to you?

RODENBURG: Yes.

GAW: Had you ever heard of anyone in the office discussing either taking someone out of the computer or making sure that they weren't on the list, after you had believed they had filed for office?

RODENBURG: I don't recall, no.

GAW: Did you inquire of any one about why that conversation was being held or why that statement was being made?

RODENBURG: No, I did not.

GAW: But you wondered about it?

RODENBURG: Yes.

GAW: Do you recall whether that was a statement that was made just to everyone in the office or was it a conversation between one or more people that you overheard?

RODENBURG: I don't recall there being very many people in the office. It seemed more like just a conversation.

GAW: Was the statement directed to you, Juli?

RODENBURG: No.

GAW: Okay do you know who this statement was directed to?

RODENBURG: I don't recall.

GAW: And you don't recall who was present when that statement was made?

RODENBURG: No.

GAW: Do you believe that the individuals that were present were individuals that normally work in your office upstairs?

RODENBURG: Yes.

GAW: Do you believe that anyone else was present other than the individuals that work upstairs in your office?

RODENBURG: I don't believe so, but I don't recall anyone in particular.

GAW: You don't believe that Tim Moriarty was there at the time, do you?

RODENBURG: I don't believe so.

GAW: But you don't know whether the Secretary of State was present at the time?

RODENBURG: No.

GAW: And you don't know whether or not she was the one that made the statement?

RODENBURG: I don't recall, no.

GAW: At that time, at the later part of March of this year, what was the relationship like between Barbara and Judi Moriarty?

RODENBURG: It seemed fine to me.

GAW: Did they get along all right at that point?

RODENBURG: Yes.

GAW: Was there ever any display as far as you could see that there was ever any conflict between the two of them?

RODENBURG: No.

GAW: Was there ever any conflict between other individuals in the office that you had seen that worked in the office, other than what you have mentioned?

RODENBURG: No.

GAW: But as I understand it there was some conflict in the office?

RODENBURG: Yes.

GAW: But that conflict was not between Barbara and Judi?

RODENBURG: I didn't see any conflict there, no.

GAW: And you don't recall any celebration or anything going on that afternoon on the 21st, where there was a big to do about Tim Moriarty having filed?

RODENBURG: No.

GAW: Had you ever heard Nadine Barrows talk about this incident on the 21st?

RODENBURG: No.

GAW: She had never discussed it with you?

RODENBURG: You'll have to be more specific, I don't .

GAW: Has she discussed this incident with you Juli?

RODENBURG: What incident,?

GAW: Well, has she discussed with you what took place in regard to Tim Moriarty's filing?

RODENBURG: No.

GAW: I'm concerned that I'm not asking the right question.

RODENBURG: Well, I didn't know what incident you were talking about on the 21st. I don't know what dates in particular all of this took place.

GAW: Well, I've expanded to other dates besides the 21st. Have you ever discussed with her Tim Moriarty's filing?

RODENBURG: No.

GAW: Never?

RODENBURG: I mean after the things that have been brought up in you know the papers, but other than that, nothing.

GAW: Well, what discussions have you had with her about that?

RODENBURG: I don't recall anything in particular, I mean I don't recall any particulars, just there have been a lot of articles out.

GAW: Has she ever discussed with you doing anything in regard to Tim's filing?

RODENBURG: No.

GAW: Ever said that she deleted any material on from the computers on Tim's filing?

RODENBURG: I don't recall, no.

GAW: You don't recall or she didn't?

RODENBURG: I don't recall her talking about any particulars.

GAW: Did she ever discuss with you having been in any way involved in Tim Moriarty's filing process?

RODENBURG: She had said that Barbara Campbell had told her that Tim had filed and that the documents were being held in her desk for what ever reason, I don't

GAW: She never told you that, did she ever tell you that she had seen those documents?

RODENBURG: She said that she had seen them, yes.

GAW: When did she tell you that?

RODENBURG: I don't recall, after the investigation started.

GAW: Was it fairly soon after the investigation started?

RODENBURG: I really don't recall, I mean I don't know the time frame.

GAW: Do you believe it was fairly soon after the investigation was started, I mean surely this must have been a big topic for conversation in your small office up there?

RODENBURG: I would say within the last month or so, I really don't know.

GAW: Within the last month of today?

RODENBURG: Yes.

GAW: Did she ever tell you that she had deleted any material off of the computer?

RODENBURG: Yes.

GAW: When did she tell you that?

RODENBURG: I would say approximately the same time.

GAW: And did she tell you what she had deleted off the computer?

RODENBURG: No.

GAW: Did she tell you that the deletion had anything to do with Tim Moriarty?

RODENBURG: No.

GAW: Was the conversation that you were involved in about Tim Moriarty?

RODENBURG: Yes.

GAW: What is your relationship

with Nadine right now Juli?

RODENBURG: Personal relationship?

GAW: Yes.

RODENBURG: It's fine; we are friends.

GAW: You said awhile ago that when Charles Campbell called you in regard to your loyalty that you said your loyalty was with the Secretary is that still true?

RODENBURG: She is my boss.

GAW: That's all I have, thank you, Juli.

WITT: Representative Shelton.

SHELTON: Mr. Chairman. This tension that was going on in the office, do you know if Ms. Moriarty knew anything about this tension?

RODENBURG: I don't know.

SHELTON: Did you know that there was a conflict between Charles Campbell and Jim Kolb?

RODENBURG: Yes.

SHELTON: What kind of conflict?

RODENBURG: It seemed to be somewhat of a power struggle. I don't believe either one wanted to take any orders from the other.

SHELTON: Did you pick that up from the paper or is that your observation? I noticed that everyone that comes in, when they described the conflict, they say "power struggle?"

RODENBURG: That was my

own personal observation.

SHELTON: What would make you come to that conclusion, what happened?

RODENBURG: There were I recall, Mr. Campbell and Mr. Kolb what I believe was Mr. Kolb on the telephone. Mr. Campbell was in the office upstairs and I was in the office and it was just a very loud discussion over something and Mr. Campbell's temper seemed to be flaring - situations like that.

SHELTON: Did you know of any occasions where Judi Moriarty had some of these people in her office, tried to resolve some of this stuff?

RODENBURG: I'm not aware of any, no.

SHELTON: Were you in conflict with anybody up there?

RODENBURG: Not to my knowledge.

SHELTON: By the way who works in that office?

RODENBURG: Who worked?

SHELTON: Other than you?

RODENBURG: Who worked at that time or works now?

SHELTON: At that time.

RODENBURG: Barbara Campbell, myself, Nadine Barrows, Marie Gladbach, Mr. Campbell, Carolyn Smith, Freda McKee, and the Secretary.

SHELTON: Okay, right in the inner office when you come in, in that office who worked there?

RODENBURG: Nadine Barrows, and Barbara and I shared a desk until Ron Casteel, who was the communications director, left. And then Barbara moved into that office.

SHELTON: So the three of you all basically shared the entrance office?

RODENBURG: Yes.

SHELTON: And during this series of events you can't remember any specific thing that happened regarding Tim Moriarty's filing?

RODENBURG: No.

SHELTON: Was there any harassment going on in that office?

RODENBURG: Not to my knowledge.

SHELTON: Sexual or employment harassment?

RODENBURG: Not to my knowledge, no.

SHELTON: Did you ever see or hear that Barbara Campbell would stick her tongue out at Jim Kolb when he would leave the office or when he had his back turned?

RODENBURG: She would make faces occasionally at people in the office. I don't recall any specific instance of Mr. Kolb or not.

SHELTON: Make faces?

RODENBURG: Make faces, stick her tongue out, wrinkle her nose.

SHELTON: Well there's only about six or seven of you all up

there, who did she make faces at?

RODENBURG: I don't remember any specifics, Marie Gladbach, Freda McKee, Mr. Kolb could have very well have been one of the people.

SHELTON: Did you ever see her mock one's walking style?

RODENBURG: No, not that I can recall.

SHELTON: Have you ever noticed any unethical or criminal or suspect activity by anybody up there in the office?

RODENBURG: Not that I'm aware of, no.

SHELTON: You said that you and Nadine's friendship was fine or okay or something. What about Barbara Campbell, is she your friend?

RODENBURG: Yes.

SHELTON: She is. Did you ever hear or see any declarations torn up or balled up or thrown away?

RODENBURG: No, sir.

SHELTON: This is like Representative Richardson mentioned yesterday. This is a real serious concern here, concerning the Secretary and we've had several people to come in to appear to not to have knowledge of certain events and they work right there in the office, you know. This raises questions of competence on my part about some of the employees in that office and if I had to give advice I would have her to clean house as of these hearings and the court hearings

because nobody seems to be showing her any support. You know employees know general kind of things, but nobody has any specific information. There were three people working right there in the outer office, several people working back in the back someplace, but nobody knows anything. You know, its just unbelievable. This is a work place, the Secretary of State's Office, the top state office, and we don't have people that keep notes, remember anything and they are working for state government. You know, maybe Hancock II should pass. That's all that I have, Mr. Chairman, thank you.

WITT: Okay, Representative Gaw asked you serious questions about what Nadine said to you about deleting things from the computer, did you ever even after up until today's time hear Nadine say anything about throwing away a document, destroying a document, wadding up a document or anything regarding documents concerning Tim Moriarty's filing?

RODENBURG: I heard something on the news one day that there had been a paper crumpled up.

WITT: But otherwise did you ever hear Nadine say anything about that?

RODENBURG: No.

WITT: Did you ever hear Barbara Campbell say anything about that?

RODENBURG: No.

WITT: Did you ever hear the Secretary of State say anything about that?

RODENBURG: No.

WITT: So the only thing you overheard was you overheard Nadine saying something about deleting a document from the computer?

RODENBURG: Yes.

WITT: Did she indicate that she had deleted that herself?

RODENBURG: I believe so, yes.

WITT: Representative Wible, I believe that you had a question?

WIBLE: Thank you. Before you started taking filings from candidates, what kind of training did you have for that?

RODENBURG: Gene Wiseman and Joe Carroll came to our office, to the Capitol Office one evening and instructed us on how, I believe Mr. Hebert was there also, instructed us on how the process would be.

WIBLE: How long did that take?

RODENBURG: An hour approximately.

WIBLE: What were you told about attesting to the document, to the declaration?

RODENBURG: The first day Mr. Carroll and Mr. Wiseman were in the office and they signed the documents after the candidate had signed. After that we were told that we were to go ahead and sign those documents if they weren't in the office.

WIBLE: On the evening that you were trained what were told about it?

RODENBURG: I don't know if that issue came up, since we knew that they were going to be there on that first day. At that time I don't recall talking about that.

WIBLE: And who else was taking the training at the same time you were?

RODENBURG: Nadine, Barbara Campbell, I believe Mr. Hebert was there, Mr. Wiseman, Mr. Carroll, I believe Rich Stilley was there in case we would need any other help.

WIBLE: And why would you need help from Rick Stilley?

RODENBURG: Well, if one of us needed a lunch break or needed to get away from a computer.

WIBLE: And his title?

RODENBURG: Budget Director.

WIBLE: And where is his office?

RODENBURG: In the Missouri State Information Center.

WIBLE: Does he get involved in the Elections activities?

RODENBURG: No, he never came over.

WIBLE: So to your knowledge he was never called for advice or ...?

RODENBURG: No.

WIBLE: When you filled out the forms for a candidate was there ever a time when you did not attest to the candidate's signature on the declaration?

RODENBURG: I don't recall

one, if so the first couple days. Well it would have been the first couple days after the first day, Mr. Carroll and Mr. Wiseman would come over throughout the day and sign the documents, but other than that I don't believe so.

WIBLE: Now when they were doing that was there a pile of documents that had not been signed and they came over and signed them all at once or were they there as each individual candidate?

RODENBURG: The first day they were there as each individual candidate came in and then from that day on, I believe that they would come over just periodically. I don't recall the exact date when we were told to go ahead and start signing the documents.

WIBLE: So on day number 2 do you recall when you took a candidate's filled out papers, printed up the declaration of candidacy, do you recall at that time whether you attested to the document as the candidate was there?

RODENBURG: I don't recall.

WIBLE: You don't recall whether you had been advised to at that time?

RODENBURG: Correct.

WIBLE: Assuming that you did not attest to them, what would have been done with those documents that were not, where the candidates had signed but you had not signed?

RODENBURG: We put them in the bottom drawer of Nadine Barrow's desk and we would send them to or Mr. Carroll or

Mr. Wiseman would come and get them.

WIBLE: But on the days that Joe Carroll and Gene Wiseman came over to help with signing of the documents do you recall pulling any out of the drawer and saying here are some that need to be signed?

RODENBURG: Not any specifically, no.

WIBLE: Do you know if documents were ever sent over to the Elections Division without an attestation as to the signature?

RODENBURG: I'm not aware of that.

WIBLE: But you don't recall whether you were attesting to those that you took?

RODENBURG: No, like I said, I don't recall the date when they told us to start signing the documents ourselves.

WIBLE: And you don't recall anything in the training period being mentioned about why you signed them or if you signed, who signed them?

RODENBURG: No.

WIBLE: So it would not have been an important issue to you at that time?

RODENBURG: No.

WIBLE: What about the candidate's signature, what were you told in your training about the candidate's signature?

RODENBURG: To always get the candidate's signature.

WIBLE: And were you told to

get the candidate's signature after the candidate had reviewed the document or before?

RODENBURG: After the candidate had looked over the affidavit.

WIBLE: Were you told to look over the affidavit to make sure the time and date were correct?

RODENBURG: I don't recall.

WIBLE: Were you told to proof these things at all?

RODENBURG: Yes, just to look over the document. I always had the candidate to make sure that the ballot name was correct, that his or her name appeared as they wanted it on the ballot.

WIBLE: On a busy day about how long would you spend with each candidate?

RODENBURG: Five to ten minutes.

WIBLE: And on your busiest day, your busiest time that you can recall, it would have been either the first day or the last day, were you spending about the same amount of time with each candidate?

RODENBURG: Yes, it took the same amount of time to fill out the document and input that information into the computer.

WIBLE: And on the last day were you attesting to the documents that you were assisting...?

RODENBURG: I believe that Mr. Wiseman and Mr. Carroll were there then. Now if they were signing the documents or

not I don't remember. If they weren't I would have signed the document.

WIBLE: And would that be if they were not there with each individual candidate you would have signed it at the time?

RODENBURG: Yes.

WIBLE: Do you recall on the last day of filing whether you allowed any documents to pile up without your signature, knowing that someone would come in and sign them later?

RODENBURG: I don't recall leaving any blank, no.

WIBLE: But you really don't recall whether you were attesting to documents on day 2, 3, 4?

RODENBURG: Correct.

WIBLE: You don't recall when you began doing that?

RODENBURG: Correct.

WIBLE: Do you recall if any one was with you on the second day of filing to sign documents?

RODENBURG: I believe Mr. Carroll or Mr. Wiseman came over but I don't know if they were there all day or if they came over periodically.

WIBLE: If they were only there periodically, would you have been signing some documents and not signing others?

RODENBURG: Again, I don't recall when they told us to go ahead and start signing the documents.

WIBLE: And you don't recall if

that was when there was no one there or when there was only someone there periodically

RODENBURG: Correct.

WIBLE: Do you recall that if after the first day of filing there was ever any one there with you all day to sign documents?

RODENBURG: I don't believe so, no.

WIBLE: And I think you stated earlier that Margaret Freeman was only there on the first day?

RODENBURG: I believe so, yes.

WIBLE: Were you ever instructed that it did not matter whether your signature was on a document, because when they got to the Elections Division someone over there would attest to them if they were blank?

RODENBURG: I don't recall anyone saying that. I probably would have assumed that, but I don't recall anyone telling me that.

WIBLE: And why would you have assumed that?

RODENBURG: I would assume that they check all the documents over again once they got to Elections.

WIBLE: When you signed a document, a declaration of candidacy form, what did you think you were doing by signing that? With your signature?

RODENBURG: I thought I was showing that I had given the candidate the affidavit, he or she had looked it over and had signed.

WIBLE: And you signed just below, the statements subscribed and sworn to before me this whatever this blank day of blank at certain time, did that have any meaning to you?

RODENBURG: No.

WIBLE: So you did not connect your signature with attesting to the fact that someone was in your presence on that date and time?

RODENBURG: No.

WIBLE: You were never instructed that that was what your signature was indicating?

RODENBURG: No.

WIBLE: It says below the signature line, "signature of officer accepting declaration." Did it have any meaning to you whether it was the person who actually took the form from the candidate or whether it was someone who was not present?

RODENBURG: I would assume that it would always be whoever had filed that candidate and witnessed that signature.

WIBLE: But you had not been instructed whether you were supposed to do that?

RODENBURG: After I was told to sign the document that we could start signing the documents.

WIBLE: What did you assume prior to being instructed to that you could sign the document? What did you assume the signature...?

RODENBURG: I think I'm confused.

WIBLE: I'm sorry that was a terrible way to phrase the question. You just stated that you assumed by signing it that whoever took the documents, I believe that's what you just stated, is that correct?

RODENBURG: Before I was told that we could sign the documents, I was assuming that if they were not signed, when they got to Elections some one there would sign them and after we were told that we could go ahead and sign the documents I was just assuming that I was signing and that my signature meant I had given that affidavit to the candidate and he or she had agreed to that and signed it.

WIBLE: Did you ever think about what the signature meant if in fact it did not get signed by someone at that time but got signed later on by someone in another division?

RODENBURG: No.

WIBLE: And when you were told that you could go ahead and start signing the documents were you instructed that you should or just that it was your option?

RODENBURG: I don't remember how it was phrased, I just knew at that time I began to sign the documents.

WIBLE: And you recall that after that time you signed every document that you took unless there was someone else like, Mr. Carroll or Gene Wiseman sitting with you and signing the documents at the time?

RODENBURG: Yes.

WIBLE: Thank you, Mr.

Chairman.

WITT: Representative Gaw.

GAW: Just a couple of follow ups. Juli, back to your conversation with Nadine in regard to this deletion. Did she tell you anything about anyone having instructed her to delete that material?

RODENBURG: She said that Barbara had told her.

GAW: That Barbara Campbell did it. Now this was again in the same conversation, right? This is same conversation you've been talking about having with Nadine?

RODENBURG: Yes.

GAW: Okay. When you would execute this declaration as an officer accepting the declaration, do you affix any seal to it?

RODENBURG: No, sir.

GAW: Someone else does that then if there is a seal placed on it then?

RODENBURG: I am assuming so, yes.

GAW: And when it says subscribed and sworn before me this, for instance 23rd day of February, 1994, at such and such in the morning, when you signed that do you believe you are attesting to that being the time when that candidate filed?

RODENBURG: I am assuming so, yes. I never paid any attention to that really.

GAW: But you would be the one that would implant that date and time there and sign under it, is that correct?

RODENBURG: In the computer, yes.

GAW: And also you would be the one that would sign it?

RODENBURG: Yes.

GAW: Juli, you are telling us today that you do not have knowledge one way or the other as to Judi Moriarty's knowledge of these events regarding Tim's filing?

RODENBURG: No.

GAW: Neither way?

RODENBURG: The only thing that I was involved in at all was taking the copy of the affidavit to the Secretary.

GAW: Oh, I see. Let me go back to that a minute. You made a phone call to Margaret Freeman?

RODENBURG: Yes.

GAW: Do you recall about when that was?

RODENBURG: I don't.

GAW: Would it have been the later part of April or first part of May?

RODENBURG: I have no idea.

GAW: Can you tell me who asked you to make the phone call?

RODENBURG: The Secretary again, said that she needed the signature and said that I might get it from Elections, so I called Margaret myself.

GAW: Okay. And you asked for what?

RODENBURG: I asked for a copy of Tim's signature.

GAW: Did you ask specifically for a copy of Tim Moriarty's signature?

RODENBURG: I probably just said I needed a copy of Tim's signature.

GAW: Did you know why Judi Moriarty needed a copy of Tim's signature?

RODENBURG: No.

GAW: Did you know what she was doing at the time in regard to the request to you to have a copy of his signature?

RODENBURG: No.

GAW: Were you aware of the fact that she was filing out some sort of ethics report for Tim Moriarty at the time of the request for his signature?

RODENBURG: No.

GAW: In the first document, did you receive a document first that was a work sheet?

RODENBURG: Yes.

GAW: And what did you do with that?

RODENBURG: I took it to the Secretary.

GAW: And what was that conversation?

RODENBURG: I took her the work sheet and she said that no she needed his signature.

GAW: So do you think that you requested Tim Moriarty's signature in your first

conversation with Margaret or did you request a document from his file?

RODENBURG: I am recalling that I asked for his signature.

GAW: Why did you take it back to the Secretary of State, that work sheet doesn't have his signature on it, does it?

RODENBURG: No.

GAW: Why did you take it back to her then?

RODENBURG: I'm not certain.

GAW: You surely would have noticed that it didn't have a signature on it, when it was faxed over?

RODENBURG: I didn't pay any attention to the document.

GAW: And you took it back to her?

RODENBURG: Yes.

GAW: And she said, "this doesn't have his signature on it?"

RODENBURG: Yes.

GAW: She didn't say anything about not having any primary election date on it?

RODENBURG: No, she just said, "I need his signature."

GAW: But she didn't say anything about asking you I need to know when the primary election date is?

RODENBURG: No.

GAW: She didn't make any reference to that information?

RODENBURG: No.

GAW: She said I need his signature?

RODENBURG: Yes.

GAW: So you went back to the phone?

RODENBURG: Yes.

GAW: Called Margaret Freeman, said, "Margaret, I need Tim's signature."

RODENBURG: Yes.

GAW: And what did she say?

RODENBURG: I said I need the affidavit because we need his signature.

GAW: When you say affidavit, you mean what we have been calling the declaration?

RODENBURG: Yes, yes; she said well this isn't signed.

GAW: She said that without looking immediately?

RODENBURG: I don't recall if she went and pulled it up or if she had it when she got the other.

GAW: But at some point she said this isn't signed, then what did you do?

RODENBURG: I said well fax it anyway.

GAW: And did she do that?

RODENBURG: Yes.

GAW: And did you get the copy?

RODENBURG: Yes.

GAW: And did you look at it?

RODENBURG: I don't recall. I'm assuming I did, but I took it straight to the Secretary.

GAW: And you went in and gave it to her?

RODENBURG: Yes.

GAW: And her reaction was surprise?

RODENBURG: Yes.

GAW: Concern?

RODENBURG: It seemed so, yes.

GAW: Was there ever any discussion that you were aware of prior to that time about Tim's signature not being on that document?

RODENBURG: No.

GAW: And when you called over there you didn't request the 56th District Democratic filings?

RODENBURG: No.

GAW: You requested Tim Moriarty's signature?

RODENBURG: Yes.

GAW: That's all.

WITT: Representative Richardson.

RICHARDSON: Just a couple of subjects I want to revisit, Juli. You and Nadine had a conversation sometime within the last month or so and she related some things to you that you had not heard before, is that right?

RODENBURG: Yes.

RICHARDSON: Now I want

you to think about it carefully and go back and recount for us everything that was said in that conversation by Nadine.

RODENBURG: I recall her saying that Barbara had told her to delete Tim's name from the computer. I can't recall anything else.

RICHARDSON: That's all she said? There wasn't anything else said by Nadine during that conversation or any other conversation you've had with her since the investigation began?

RODENBURG: Not that I can recall.

RICHARDSON: Now going back to this period of the 21st through the 29th, did you in fact overhear something being said about deletions or removing documents or undoing some things that had been done between Barbara and Nadine or Nadine and Barbara or anybody else?

RODENBURG: I remember a conversation of someone saying we better get Tim out of the computer if he's not filed yet.

RICHARDSON: And that happened somewhere around the 21st? Is that right?

RODENBURG: Right.

RICHARDSON: And you are certain that you remember that conversation?

RODENBURG: Yes.

RICHARDSON: You gave testimony to the Grand Jury on June 30th did you not?

RODENBURG: Yes.

RICHARDSON: And the question was asked of you on page 296, did you ever have any conversation with Barbara Campbell or Nadine about the fact that they were holding up paper work. Answer no. Did you ever overhear any conversations to that affect, answer no, no, no. And did you ever overhear any conversations from the 21st to the 29th of March including March 29th about the fact that Tim was only now filing or anything of that nature, answer no. Did you remember this conversation sometime later after you gave this sworn testimony on June 30th?

RODENBURG: I apparently did.

RICHARDSON: So you didn't remember it when you were before the Grand Jury, but since then it has come back to you?

RODENBURG: Yes.

RICHARDSON: And you think your testimony today now would be the more correct, the more accurate testimony over what you had said before the Grand Jury?

RODENBURG: Yes.

RICHARDSON: I have no further questions.

WITT: Representative Gaw.

GAW: These questions that Representative Richardson just inquired about, did you ever have any conversations with Barbara Campbell or Nadine about the fact that they were holding up this paper work. That's not specifically what you testified to earlier, if I recall.

You testified that you overheard a conversation.

RODENBURG: Correct.

GAW: But you did not know whether Barbara or Nadine were involved in that conversation.

RODENBURG: Correct.

GAW: And so and also if I recall your testimony you testified that it could have been the Secretary of State that made that statement?

RODENBURG: That's correct.

GAW: Nothing further.

WITT: Representative Shelton

SHELTON: Could you tell us where you were when Nadine told you about deleting the information from the computer?

RODENBURG: In the Capitol office upstairs.

SHELTON: Were you two alone or was there somebody else?

RODENBURG: I believe we were alone, yes.

SHELTON: Did she whisper this to you or did she talk out loud?

RODENBURG: No we were just talking.

SHELTON: Normal office conversation. Who is your immediate supervisor?

RODENBURG: Marie Gladbach.

SHELTON: Marie is your supervisor. Okay when you

talked to Margaret when you were requesting the signature, did you tell her who you were or did she know who you were or did you assume she knew?

RODENBURG: She probably knew who I was.

SHELTON: Do you remember specifically identifying yourself?

RODENBURG: No, I don't.

SHELTON: That's all.

WITT: Representative Wible.

WIBLE: Between you, Barbara Campbell, Nadine, are any of the three of you notaries?

RODENBURG: Nadine is.

WIBLE: So is it her seal that went on the documents that the others were attesting to, do you know?

RODENBURG: I don't believe anybody put a seal on it. To my knowledge no one put a seal on it.

WIBLE: I'm sorry repeat again, who was the notary?

RODENBURG: Nadine Barrows.

WIBLE: She was the only one?

RODENBURG: Yes, ma'am.

WIBLE: Thank you.

WITT: Any further questions. Thank you very much I appreciate you spending your morning over here and testifying in front of us. For the committee's information I did have the staff go back through and look at the filings in regard

to the file stamped copies that came from the machine in the office where they slid the document in. It appears consistent throughout that the file stamp machine was never turned forward. Arthur Ransom on the file stamp copy filed on February 30, Bradley Elms filed on February 30, Jim Higgins filed on February 30, Mark Richardson here on the committee, he's a lawyer, filed on February 31, and we have a Virgil Rogers who filed on February 32 and couple others that are filed on the 31st. All the documents appear consistent with the machine going on with the date and the documents actual date is consistent with if it had not been, if it had been rolled forward and done like it was supposed to be. For example, Mark Richardson who has February 31 on his the 3rd of March is the actual date on the declaration of candidacy, so it appears that everything is consistent with the theory that it was never rolled forward.

RICHARDSON: Mr. Chairman, that makes three out of five on this committee not properly filed and therefore, illegal candidates and I would think that that would mean that this committee could not move forward because there is no quorum.

WITT: I did notice that Zane Yates was also filed at 5:03 p.m., we'll need to talk to him also.

GAW: I wanted to point out to Representative Richardson, too, that the statements by Mr. Brown that I was not attested to were incorrect.

RICHARDSON: So you are in fact proper

GAW: I suppose so. We may still

be okay.

WITT: Actually it's the two Republicans.

RICHARDSON: Two Republicans that have been removed from the committee, which really won't have any net effect anyway.

WITT: It is 12:00 right now or a few minutes after. Lets break for lunch until 1:15.

• RECESS •

WITT: Once again, for those of you that are here. If there is anyone that is - has been subpoenaed as a witness or intends to appear as a witness - you do need to leave the room and go. We've got Hearing Room 8 set up back over here to have the witnesses wait but we do not want witnesses in that, one going to, listening to other witnesses testify so if there is anyone here I'd appreciate if you'd go back to Hearing Room 8 until you're called. Bring the committee back to order. Mr. Ardini, if you would please raise your right hand. You do solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth and nothing but the truth, so help you God.

EDWARD ARDINI: I do.

WITT: Would you state your name and where you live.

ARDINI: My name is Edward Ardini, and I reside here in Jefferson City.

WITT: What is your occupation?

ARDINI: I'm an Assistant Attorney General for the State of Missouri.

WITT: How long have you held that position?

ARDINI: Since August of 1992.

WITT: And in your position as Assistant Attorney General did you participate in any investigation into any discrepancies with the filing of Tim Moriarty?

ARDINI: Yes, I did.

WITT: How did these discrepancies come to your attention and how did you proceed?

ARDINI: The discrepancies initially came to my attention and the attention of our office through a letter received from David Edwards, the attorney for Barbara and Charles Campbell. We received that letter on June 14 or 15th, and at that point we initiated our inquiry.

WITT: And were you responsible for that investigation?

ARDINI: I was responsible as the lead attorney on it and also had an investigator working with me.

WITT: Okay, what did you do in response to beginning your investigation?

ARDINI: I reviewed relevant case law or statutes relevant to elections and reviewed documentation filed by Mr. Moriarty for his candidacy for the 56th District and conducted numerous interviews of past and

present employees of the Secretary of State's Office.

WITT: Okay. In your review of those documents where did you obtain those documents that you reviewed on Tim Moriarty's file?

ARDINI: Those documents were obtained from primarily from the Secretary of State's Office and again primarily from the elections division.

WITT: So did you go over to the elections division and go in there and actually look in the files?

ARDINI: Yes.

WITT: And the document that you found for the filing of Tim Moriarty did it have signatures on it?

ARDINI: Yes, it did.

WITT: Was there any indication as to those signatures not being present earlier? That they had been added later or . . . ?

ARDINI: Any indication on the document itself?

WITT: Right.

ARDINI: No, there was no indication on the document.

WITT: And nothing in the file that would indicate that if anything that they were signed on, what was the date of that document?

ARDINI: The date of the declaration of candidacy was March 29, 1994, and indicated 1:19 p.m. and the other documents which were in the file accompanying the declaration were time stamped the same date, same time.

WITT: Okay, so the candidate work sheet that he filled out or that was filled out by hand had a date and time stamp on it at the same time?

ARDINI: Yes, it did.

WITT: Okay. Who did you interview in regard to this issue? I guess who did you interview first. I guess would be better.

ARDINI: The initial interview was of Joe Carroll, Deputy Secretary of State for Elections.

WITT: And what did he relate to you in regards to this document?

ARDINI: Well, first the purpose of the interview with Mr. Carroll was to get some background information as to what the process was that was followed by candidates to file for candidacy, what the paperwork looked like, because at that point we had not seen all the paperwork and get an idea of what he knew of the candidate, of the filing of Tim Moriarty, so we interviewed Mr. Carroll over at his office on our first day of our investigation.

WITT: What did he relate to you about the filing of Tim Moriarty?

ARDINI: He indicated to us that he had very little knowledge as to the actual filing. He stated that problems with the documentation first came to his attention when he was here in the Capitol one day during the legislative session. That someone had come up to him and said that there was a problem with a candidate's paperwork and that the problem dealt with signatures and that a decision was ultimately made

that it was a clerical error that could be rectified and that was subsequently performed.

WITT: Did he say who was involved in making the decision that that was a clerical error?

ARDINI: He indicated that he had discussions that he believed he had discussions with Randy Sparks and that he was very unclear as to who was present with him in the Capitol when he was he first was notified of this problem. He did indicate that he had no knowledge as to how the actual signatures had got on there to the documents, as to the procedure, either time or sequence, how those signatures appeared on the document.

WITT: After you interviewed him, who else did you interview?

ARDINI: We next interviewed Gene Wiseman the Director of Elections.

WITT: And what did he relate to you regarding the filing of Tim Moriarty?

ARDINI: Again Mr. Wiseman indicated that he had very little knowledge regarding Mr. Moriarty's filing, that it first came to his attention that there was a problem when he was looking at the document. He just happened to pull the document out and there was, he noticed there was no signature on it but that it did not concern him that much and that a decision was subsequently made to have signatures applied after the fact.

WITT: Did he indicate that it was one or both signatures that were missing?

ARDINI: I believe that Mr. Wiseman indicated that both signatures were not on the document at that time.

WITT: Did he indicate who made the decisions to go ahead and add those signatures later or how they arrived at that decision?

ARDINI: At the first interview I don't believe Mr. Wiseman indicated any information on that fact. He was very, the gist of the initial interview was both with him and Mr. Carroll was that they had no information, that was relevant to how the filing actually occurred and very little information even after the fact as to how the signatures got on there subsequently sometime in May.

WITT: Did you interview Mr. Wiseman again later?

ARDINI: Yes.

WITT: When was that?

ARDINI: Yes, on Tuesday, I believe June 21st, the first interview occurred on Monday.

WITT: The next day you went back and talked to him?

ARDINI: The next day right. And during, as I said earlier, the first interview with Mr. Wiseman and Mr. Carroll were really background interviews to get a sense as to what the procedure was followed by the office and what we should be looking at when we conduct these other interviews. Following our initial interview with those two we interviewed, Barbara and Charles Campbell and we got what Barbara Campbell understood the facts to be. We also interviewed

Nadine Barrows on that Monday. The stories that we are getting from everyone were very different. None of them coincided with each other.

WITT: I guess maybe I jumped ahead. Let's jump back to - you interviewed Barbara Campbell about this, what did she tell you about how Tim Moriarty's filing went?

ARDINI: She indicated to us that on March 21st, 1994, sometime after hours, approximately 7:00 p.m. was her recollection, that Tim Moriarty appeared at the Secretary of State's Capitol Office, went in had a meeting with his mother and possibly Mr. Kolb and that she was summoned in there. She was told by Ms. Moriarty that Tim would be filing for State Representative, but that he had some loose ends to take care of first but that she desired to have the initial paperwork completed now while he was there. She then indicated that she went out and had Tim fill out the candidate worksheet and filled out the filing fee for the Democratic Party and then the material was then put in the file in the desk drawer of Nadine Barrows and was held until he got clearance from the Department of Labor to both run for office and continue to hold his state job.

WITT: Did she indicate that at some time later she did file that or that it was filed?

ARDINI: She indicated that on March 29th in the morning that she was notified by Nadine Barrows of the fact that the documentation was still in the desk and had not been filed and this was the last day for filing and that did Barbara Campbell

know what to do or if she been notified. Barbara Campbell indicated that she went into Secretary Moriarty's Office, informed her of the fact that the paperwork had not been filed yet, that sometime subsequent to that toward the late morning Secretary Moriarty informed Barbara Campbell that in fact Tim Moriarty would be running for State Representative from the 56th District and that she should process his paperwork at a time when there were no other candidates and very little staff around in the office and she indicated that lull in the proceedings, you know the last day so it was somewhat busier than the other days occurred approximately 1:15, and both herself and Nadine Barrows filed him, completed the declaration for candidacy, and that paperwork was forwarded over to the Elections Division unsigned.

WITT: Okay, so she indicated that it was not signed at that time?

ARDINI: Yes.

WITT: Did she indicate anything about anything happening later regarding the signatures of those documents?

ARDINI: She indicated that sometime, it was her statement that sometime in late April early May, that she was summonsed into Secretary Moriarty's Office where Ms. Moriarty and Mr. Kolb were present. that Ms. Moriarty was quite upset. She had indicated that she had just requested a copy of Tim's declaration be faxed over from the Elections Division so that she could have a sample of his, Tim's, signature to place on an ethics report, and that when she

got a copy of the declaration there was no signatures on there and she was upset with Ms. Campbell for not having gotten these signatures. Ms. Campbell stated that she explained to Secretary Moriarty that as you know Tim was not there on the 29th when we filed him, so therefore, he could not have signed it and I was not going to sign it without him being present. Ms. Moriarty responded by saying, "well, Tim has been in Jefferson City a number of times since then. You should have gotten him to sign it then." She then said, "I want you to go and get your car and drive over to Information Center at this point and sign the document. Gene Wiseman has the document now and he is waiting for you over there." Ms. Campbell asked if she could wait and do it later and Mr. Kolb, I believe stated, "No, you get in the car and you get over there now." And one of the two of them said, "Don't tell a soul that you're doing this; too many people know about it already." She then got in her car and went over to the Information Center where Mr. Wiseman had the declaration waiting for her. If I could add, the document that she signed at that time, she indicated did not have the signature of Tim Moriarty and that was in mid-May when during our interview on June 20th or 21st with the Campbells we had a copy of both signatures and that was the first time that she had seen a signed document or signed declaration with both signatures on it.

WITT: Then you said you interviewed Charles Campbell. Did he have any information regarding the filing of Tim Moriarty?

ARDINI: Not directly, he indicated that he was present I believe he indicated he was present but he did not have any information that was directly relevant to the sequence of events.

WITT: You next said you interviewed Nadine Barrows, I believe?

ARDINI: Yes.

WITT: What was, what did she tell you?

ARDINI: Well, we interviewed we requested an interview of Ms. Barrows for the purpose of getting information from her on the documentation being kept in her desk for that 8 day period from the 21st to the 29th of March. We called Ms. Barrows over and asked her about these documents and she indicated that she had absolutely no information, that she had no knowledge of anything having to do with Tim Moriarty's filing of any of the documents, and that no documents to her knowledge were kept in her desk. And that was essentially it. She just did not have any knowledge relevant to Mr. Moriarty's filing on the 21st or the 29th or subsequent to with the signatures.

WITT: Did you interview anyone else on that day that had relevant information to the filing of Tim Moriarty?

ARDINI: No, we did not.

WITT: And then you went to the next day and you interviewed, I believe you said, Gene Wiseman again?

ARDINI: Yes, the second day

we wanted to go back and look at the paperwork that was in the Secretary of State's office and while we were there, based mainly upon the discrepancies that we had gotten on the first day in interviews, we wanted to reinterview Mr. Wiseman and Mr. Carroll and at that time we did reinterview both those individuals.

WITT: Can you tell me about the interview with Mr. Wiseman?

ARDINI: Mr. Wiseman's interview was conducted in his office over in the Elections Division of the Information Center. We indicated to Mr. Wiseman that we had subsequent to our first interview had the opportunity to interview a number of other individuals and we had some areas that we wanted to revisit with him. The first area that we wanted to revisit was the fact that he indicated on the first day that he had received a call from Barbara Campbell stating that she would be coming over to sign the document of declaration, that she had made a mistake. Again on the first day he was not sure that that happened, but that was what he recalled. We asked him if he thought that was right and he said well maybe not, maybe that's not what happened. We asked him if it was possible that Mr. Kolb had called him because based upon Barbara Campbell's statement Secretary Moriarty and Mr. Kolb were present when she went into Ms. Moriarty's office and was told to go over and sign the document. He said no it is not possible that Mr. Kolb called because it was a female and he knew it was a female that called. So we then said, if it wasn't

Barbara Campbell and it wasn't Mr. Kolb, who was it that called you? At that point, his whole demeanor changed. He kind of became pale he got up he walked around the room and what seemed like 10 minutes went by without him answering the question but kind of mumbling to himself. He looked out the window for a while. He finally went back and sat down just kind of breathing heavily and he said, "I know what you think, and yeah, the I believe that the call that I got was from Judi Moriarty." And I said "Well, what did Secretary Moriarty say when she called you." He said, "Well, I think what she said?" was, 'Barbara Campbell will be coming over to sign the document to fix the problem with Tim's filing.' And at that point he just kind of slouched in his chair and that was the end of the interview with him.

WITT: So you didn't follow up any further with that?

ARDINI: No.

WITT: Did he seem pretty certain that it was Judi Moriarty that called him at that point or...?

ARDINI: His statement was that he believed it was her again given his kind of conduct when we asked him the question and the way he was acting, the feeling I was getting was he had something he wanted to say and he didn't want to say it and that kind of explained him walking around and breathing heavily and mumbling to himself and finally when he sat down and slouched in the chair. "Yes, I think it was Judi Moriarty." Well what did she say? At that point I think he was pretty

certain of what he was saying.

WITT: After you finished interviewing Mr. Wiseman did you go to interview Mr. Carroll?

ARDINI: Yes.

WITT: What did Mr. Carroll say in the course of that interview?

ARDINI: Well, during our interview with Mr. Wiseman on the first day he had indicated that he saw very little problem with the fact of having a declaration with no signatures on it and having them fixed after the fact. So we went into Mr. Carroll on the second time. Again this interview was held in his office, I said, I asked him, "Does Mr. Wiseman here next to you, he works below you, he indicated to us yesterday that he has no problem fixing declarations sworn affidavits in essence after the fact. Is that your position also?" And he said only when there is a clerical error but when you have only one signature missing, I really thought that would be a clerical error and that wouldn't be a problem. I informed him at that point that the declaration in question, Mr. Moriarty's, had no signatures on it when discovered and at that point he told me and the investigator, "This is the first I'm hearing of that. I was told and under the impression throughout that Barbara Campbell had signed that document on the 29th and that Tim Moriarty had just simply forgotten to sign the document and that he was coming back in." He said, "This is the first time I'm hearing of it and that changes everything. You can't go and fix that. That is wrong. I don't know why they didn't tell me that information."

WITT: So he indicated that he never knew that Tim Moriarty or that both signatures were not on that document?

ARDINI: Right, his impression based upon his statement to us at that time was that there was one signature missing, that being Tim Moriarty's, and it had simply been overlooked at the time of his filing that he didn't he didn't, he didn't sign it.

WITT: Did you interview anyone else on that day that had any relevant information regarding the filing?

ARDINI: We interviewed a number of, we interviewed the other people in the Elections Division to determine if any of them had any information relating to Tim coming in and signing the document and no one there had any information. He had witnessed him coming in and signing it and no one had any information of going and retrieving a document for someone else to have taken to Tim for his signature. The other person we interviewed on that day, I believe, would be Ms. Woolery from the UCC division.

WITT: What was...?

ARDINI: Anne Woolery, I believe.

WITT: What was the nature of her...?

ARDINI: Yeah, Anne Woolery. We had received a letter from Randy Sparks indicating that Tim Moriarty had come in and signed after the fact after the filing deadline, and that he had been seen in the building by Anne Woolery. So we wanted to find out what she knew. We interviewed her and she stated

that on one occasion, she can't give you dates or anything, but that Secretary Moriarty and Tim Moriarty were coming through the Information Center and there was this discussion that Tim was filing. There was a second encounter with Tim Moriarty some time subsequent to that, she believed in May, where she came out of the UCC Division, which is located on the third floor right next to the Elections Division, and saw Tim Moriarty get off the elevator rushing into the Elections Division making the comment, "I can't stop and talk I've got to sign a document before 5:00." And that was in essence her statement to us. I asked her how it came to be that this information was made known to Randy Sparks or anyone else. She stated that Mr. Sparks had called her into his office the week prior, and that would have been the week that it had all started, all the allegations about Tim Moriarty's filing came to light, and that he asked her if she had witnessed Tim Moriarty in the building signing his document and, of course, she did. We asked her if anyone else to her knowledge in the Secretary of State's Office in any division had been called into Mr. Spark's office and asked if they had any information and she said, "No, no one in her division and no one else in the building to her knowledge." At the same time we asked everyone in the Elections Division, 'cause it would be logical if you want to find out if someone had witnessed Tim Moriarty sign a document in the elections division. You would ask those people first and none of them had been asked to go in to by Mr. Sparks or anyone else, if they had witnessed Tim

Moriarty's signature being placed on the document.

WITT: So that seemed inconsistent with you?

ARDINI: It seemed ironic that of 250 employees that the one employee that was contacted had that information and that employee is not directly related to the allegations that are there, specifically the Elections Division.

WITT: Did you then interview anyone else that had relevant information to it?

ARDINI: Not on that day, I don't believe.

WITT: On the next day, the following day did you conduct any additional interviews?

ARDINI: The following day we interviewed Tim Moriarty.

WITT: And what was the nature of that interview?

ARDINI: Well we wanted to get from Mr. Moriarty his sequence of events. He indicated to us that on March 21st at approximately 12:30 to 1:00 he left his home in Lake Lotawana and drove to Jefferson City, stopping first at the Department of Labor arriving there around 3:00 or 3:30. The purpose of his stop at the Department of Labor was that he wanted to get clearance before he filed from his employer to run for State Representative while he was a state employee. He expressed even to us during our interview that he had some concerns at that time of being a state employee, his mother being a Secretary of State, and running for office all at the same time

and he had respect for the Governor's office and he didn't want to have to create a conflict there. So he wanted to go there and get approval from his employer. He went there and we was not able to get approval at that time. They said that they would take the matter under advisement and look into it. He stated that he then went over to the Secretary of State's Capitol Office, arriving there between 4:45 and 5:00 p.m. on the 21st, that he was met in the lobby area by his mother, and that Secretary Moriarty indicated that she wanted Barbara Campbell to file him, and that she did want to be, did not want participate in any way in that tainting the filing, so she at that point, left the room and went into her office. At that time he filled out the candidate worksheet. He paid his \$50, There had been a discrepancy also on where the \$50 had come. We had been, it had been indicated to us, I believe that by Barbara Campbell that she thought the money had come from someone else. She thought maybe it had come from Secretary Moriarty. We asked Tim Moriarty where he had gotten the money. He stated that it was his money, it was his \$50 that he had pulled it out, that he gave the information that Barbara Campbell inputted the data into the computer, that he reviewed a declaration of candidacy on that date, but that he did not sign one and that he left the office at that point. We asked him again, "Tim did you sign a document at that point?", and at that point he became kind of agitated or angry at us, "Well, if I had signed a document on the 21st, I wouldn't have had to go back in May and sign it again, so no I didn't sign

it on the 21st."

WITT: And he was clear to you that he had not signed a document on the 21st in the Secretary of State's Office and that he did not sign that document until sometime later?

ARDINI: Some time in May. He indicated that the document that was actually in the file that has the two signatures on it is a second run of the information dated on the 29th when it was formally filed, but that he had not signed anything on the 21st but that he reviewed a document. We asked him if he had a document, if he was given a document or if he had one in his possession and he said he does not have a copy of anything of any declaration or any other documents from his filing. At that point a decision was made from our office that because he, the documents had not been signed prior to March 29th of 1994, the filing deadline, that he was not a properly filed candidate, that he should be removed from the ballot, and we informed him at that time at that interview of that fact and we informed him that we would be contacting Secretary Moriarty and Secretary Moriarty's attorney of that fact, and we then issued a letter over to I believe the letter went to Mr. Sparks indicating that based upon the facts Mr. Moriarty does not belong on the ballot and he should be removed and that concluded our interview of Mr. Moriarty.

WITT: Did you interview anyone else following the interview with Tim Moriarty?

ARDINI: No. Following the decision that we made for his removal from the ballot we

suspended our investigation to that aspect of the Secretary of State's Office pending the criminal's investigation conclusion.

WITT: And that was the Grand Jury that was here in Cole County?

ARDINI: Correct.

WITT: Was there any other information that you had from any other witnesses indicating the knowledge of the Secretary of State or the orders of the Secretary of State to fill out a any of the documents or to hold the documents or sign the documents after the fact?

ARDINI: As far as the filing of the documents or the actions on the 21st our information as to the knowledge and the instructions from the Secretary of State herself come from Barbara Campbell. Everyone else that we have interviewed in the Capitol Office either gave differing stories, differing general stories, none of them were very specific, or they just did not have any information. And during our investigation we were concerned because we were being told both by people we were interviewing and others that people were getting together after being interviewed and talking about what the stories were, what we were asking, and what we were being told. And we were concerned that stories were changing, and they would start being molded into into one story. For that reason we, our investigation lasted only three days. We aggressively got in there and interviewed probably 10 to 12 people, kind of multiple interviews, to kind of get in there, and get a sense of what

was going on, but we did experience throughout that three day period, stories changing, and difficulty in that aspect.

WITT: That's all I have right now are there further questions? Representative Shelton.

SHELTON: When you were talking to Mr. Wiseman about Tim coming into file did you believe him when he told you that he believed that it was Judi Moriarty that called him?

ARDINI: Did I believe him? Yes. I believed he was telling the truth.

SHELTON: What did you base that belief on?

ARDINI: His conduct both during both interviews. He was very nervous, both him and Mr. Carroll both appeared to be very nervous during both interviews. Even both of them were giving different stories, although there offices were right next to each other.

SHELTON: Did he ever indicate to you that Barbara Campbell had come over to sign her name on the declaration?

ARDINI: Yes, he did.

SHELTON: He didn't think that it was unusual for that to occur, for her to come over and sign the declaration without Tim's name being on it?

ARDINI: His position was that it was, that the fact that there were no signatures and that the signatures were being applied after the fact was not a problem at all. That's what caused us to bring that concern up with Mr. Carroll. Because Mr. Wiseman

works under Mr. Carroll and the fact that that document says March 29th on it and its signed and sworn to on that date and these signatures are being applied some time in May. It was a concern not shared by Mr. Wiseman and we were curious as to what Mr. Carroll's feelings were on that and that's what gave rise to his indication that he had no knowledge that both signatures were not on the document at that time.

SHELTON: So, did Mr. Carroll indicate during the interview that Ms. Moriarty had called him to talk about Tim's signature on the declaration?

ARDINI: Mr. Carroll throughout the process indicated that he had very little involvement in it other than being told here at the Capitol one day that there was a problem with it and that it was of a clerical nature and that it should be fixed.

SHELTON: Were these interviews taped?

ARDINI: No, they were not.

SHELTON: Did Tim every indicate to you that he got the money from Gary Dey?

ARDINI: He never told us that, no. He told us that it was his money.

SHELTON: Do you know who Gary Dey is?

ARDINI: I sure do.

SHELTON: You know he works for the Secretary of State's Office?

ARDINI: Yes, I do.

SHELTON: This lady Anne Woolery, what time frame does she see Tim in the Information Center?

ARDINI: Her ability to pinpoint time was very, very vague. I'm not even sure seeing her now if she was ever able to give us months. She was able to say as I recall, she was able, she saw Tim and Secretary Moriarty at one time

SHELTON: Together?

ARDINI: Together talking about how he was filing and then there was a second meeting which happened after that where he was there to sign something, but I don't think she was ever able to put that sequence in either by month or week time frame.

SHELTON: The time she saw him alone, he was rushing to the Elections Division to sign something by 5:00?

ARDINI: That's what she indicated to us, yes.

SHELTON: Let me ask you a final question, was there any other attorney general involved in this investigation other than yourself?

ARDINI: In the Tim Moriarty part of it?

SHELTON: Yes.

ARDINI: Not in that part of it. I mean Deputy Attorney General Downing sat in on Tim Moriarty's interview but did not participate in the investigation other than that. Subsequently there has been the ongoing investigation, there has been another Assistant Attorney

General who has been working on the case with me and the investigator.

SHELTON: Did you or anybody over there have anything to do with his withdrawal statement?

ARDINI: With his?

SHELTON: Withdrawing from the race? Did you help him develop this or suggest that he . . . ?

ARDINI: I'm not sure what that is.

SHELTON: (brings Ardini withdrawal statement) Do you have any knowledge of that?

ARDINI: No. This is, as I recall, one of three statements that were issued to the press on the day that we informed the Secretary of State's Office that Tim was not a properly filed candidate. Then was this signed statement by Tim, there was a statement I'm not sure whether it was signed or not by the Secretary and there was a signed statement by Nadine Barrows which completely contradicted everything she had told us two days earlier.

SHELTON: You or nobody over in the Attorney General's Office recommended that he withdraw from the race?

ARDINI: We informed him - not withdraw - no. We informed him that he was not a properly filed candidate and that he did not, he should not have been on the ballot and we informed the Secretary of State's Office of that. That could be interpreted as saying he should withdraw or be removed from the ballot, I suppose, but we didn't anything,

have any input in this document here at all.

SHELTON: That's all that I have.

WITT: Representative Wible.

WIBLE: When it was discovered internally within the Secretary of State's Office that there was a document, a declaration of candidacy with no signatures on it, would it have been appropriate at that time for someone from the Secretary's Office, perhaps the Secretary herself or her legal counsel, to approach the Attorney General as to what to do with that document or . . . ?

ARDINI: How to handle the situation? That probably would have been an appropriate response.

WIBLE: Are you aware of any other instances like this, of a document that has not been properly filed candidate because of a signature that is missing?

ARDINI: I know that there is a number of declarations that have been forwarded over to the elections division that do not have the signature of the election officer. But there are, to my knowledge, no candidates filing where the candidate was not actually present when the filing occurred and that their signature is not on them. My understanding is that the candidate's signatures are on all these documents. This is kind of a twist on that where the 29th you don't have Mr. Moriarty there and you don't have any signatures on the document. So, no. This scenario I think is the only one. We asked initially during our first day of investigation to Mr. Carroll and

Mr. Wiseman, "Is this something that happens with the number of documents?" "No," they said, "this is the only one that has occurred." And this, I think, was their first election cycle since they were in office, so that was all that they would have been aware of.

WIBLE: Attorney General's Office, I would assume gives advice fairly frequently to state departments, executive branch, about things that have a questionable, that have a legal question attached to them. In a situation like that where there is something that directly involves the function of that office such as an election document involving the Secretary of State's Office, I don't know whether you can give me an opinion on this or not or whether you would want to, but would you find it to be reasonable for the Secretary of State to rely on opinions of legal counsel?

ARDINI: I think that given the fact that there is a pending criminal matter, specifically, directed at that individual I should probably refrain from answering that question or giving an opinion on that.

WITT: It appears there are no other questions, Mr. Ardin. I do appreciate your coming here today especially. I know you just had knee surgery and have been in the hospital and we appreciate your coming down today.

ARDINI: Okay, thank you.

WITT: Next, unless there is some very strong feeling we need to take a break, let's move on.

SHELTON: We can take a big

break later on.

WITT: We'll give you seven minutes next time.

WITT: Next we'll call Sandra Moore.

WITT: Sandra, if you will, will you raise your right hand?

SANDRA MOORE: Yes.

WITT: Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth the whole truth and nothing but the truth, so help you God?

MOORE: I do.

WITT: Thank you, will you state your name for the record?

MOORE: Sandra Moore.

WITT: And, Sandra, what's your occupation?

MOORE: I'm Director of the Missouri Department of Labor and Industrial Relations.

WITT: How long have you held that position?

MOORE: Ten months.

WITT: Ten months;

MOORE: Not quite ten months; ten months on the 18th.

WITT: Did you have an employee that worked under you named Tim Moriarty?

MOORE: Yes, I did.

WITT: When was he working for you?

MOORE: Mr. Moriarty was

working at the department when I came on board in January of 1994 and he worked through early June 1994.

WITT: What kind of employee was Tim Moriarty?

MOORE: Do you mean what was his job or what was the quality of work?

WITT: What was his job first.

MOORE: He was a prevailing wage inspector.

WITT: And what did that entail?

MOORE: That entailed going out to evaluate whether particular projects, on particular construction projects, the prevailing wage as mandated by the statutes of Missouri is being paid.

WITT: And what was the quality of his work?

MOORE: He was not a very satisfactory employee.

WITT: How many inspections would he be responsible for at a time or reports or at any given time?

MOORE: I'm not the best person to answer that kind of question, Representative Witt, in terms of how many inspections he would be responsible for. He, however, did not meet the responsible expectation of a prevailing wage inspector for the amount of time that he'd been there and that was communicated to me by his direct supervisor, who was Ms. Baker at the Division of Labor Standards.

WITT: Okay, so we have Colleen Baker. She would be better to talk about his day to day activities?

MOORE: Yes.

WITT: Did you become aware at some point that Tim Moriarty was considering running for State Representative?

MOORE: Yes, I did.

WITT: And how did you become aware of that and when was it?

MOORE: Ms. Baker came and talked to me told me that Mr. Moriarty wanted to run for State Representative and I believe that was in mid-March, 1994.

WITT: And, what was your reaction to that?

MOORE: My immediate reaction, pardon me but I've got the flu, my immediate reaction was that we needed to find out if it was proper and legal and appropriate for a state employee to also run for a position as a State Representative at the same time that they were employed by the State.

WITT: Okay, and did you give any response to Colleen Baker when she came and talked to you in mid-March about whether or not it was proper for him to do so?

MOORE: Well, I initially looked at the statutes, the applicable statute, myself just quickly to try to get an idea of what the answer was and then I asked Colleen and David Mitchem who is the Deputy in the Department to do some research to get the answer.

WITT: So you didn't give an answer right then that would have been relayed back to Tim?

MOORE: I did not.

WITT: Did they do that research?

MOORE: Yes, they did.

WITT: And did they give you a response?

MOORE: They did, they gave me a response that it was legally and ethically permissible and that it was appropriate for him to run and with what concerns we needed to have that he separated his running for State Representative very clearly from his state duties.

WITT: Did he, you inform him of that decision, that it was okay for him to run?

MOORE: I made arrangements to inform him.

WITT: How was that?

MOORE: I wrote him - well, because of the timing, it was very near the filing deadline when we finally got all of the answers, so I had Colleen to call Mr. Moriarty so that he'd have the answer right away and then I and on the same day I, I believe it was the same day, I wrote him a letter telling him that he could run and remain an employee of the Department of Labor and I mailed that letter, regular mail on that day and then I also mailed it certified, because I wanted to have a record of having given him a timely answer. So . . .

WITT: What was the date of that letter that you mailed?

MOORE: Either March 29th or 30th. I'm sorry I'm not absolutely sure.

WITT: Now March 29th was the last day of filing?

MOORE: I have, we have the letter somewhere.

SHELTON: I have it. (Moore gets letter from Shelton)

MOORE: This is it, I'm sorry, it's March, it's March 28.

WITT: And did you mail it on March 28th?

MOORE: I mailed it on, I didn't mail it, the secretary mailed it, and I'm pretty sure she mailed it on March 28th. The reason that I had the phone call made is, because it was running so close to the end of the month and I understood that was the last day and he needed an answer.

WITT: And do you know, who did you ask to make that phone call?

MOORE: Colleen.

WITT: And did Colleen Baker make that phone call to your knowledge?

MOORE: Yes she told me she made it and she spoke to him.

WITT: Did you have any further conversations with him about his running for State Representative?

MOORE: I had one other conversation in mid-April. I don't remember the date, the 13th sticks in my mind, sometime 13th, 15th of April, just a very brief conversation with Tim and he thanked me for allowing him to run is I think

the way that he put it. And I said fine, really no thanks was due, but that's not what I said, I think what I said was that's fine and just make certain you keep your work in order and keep your time straight. (End of tape #4)

WITT: Okay. What were your concerns about his job and his running for State Representative as far as you said you wanted to keep his state duties and his campaigning for office separate? Did you have particular concerns...

MOORE: Well, my concerns really came out of my own background. I came to state government as having previously been a federal employee, prohibited by the Hatch Act from engaging in political activity and working for the federal government. So immediately my concern was does state is state law the same as federal law and would there be a prohibition as there was for me as a federal employee with him engaging in this political activity. So that's what really prompted my first concern.

WITT: Okay, I think that's all I have. Is there other questions from members of the committee?

SHELTON: Can I have my letter back? You have a regular log at your office where people sign in, looks like this?

MOORE: Not at the director's office, no. At least not that I'm aware of.

SHELTON: Where did this come from, Sharon?

"Inaudible". (Sharon Busch talking with Representative

Shelton).

SHELTON: Okay, while she's looking for that, when you looked at the statutes, what did it say? You remember? 1.5 something?

MOORE: I really don't. Representative Shelton.

SHELTON: Okay.

MOORE: I, what I remember is that I couldn't figure it out. I couldn't figure out an answer. So that's why I asked.

SHELTON: You read the statutes, couldn't figure out an answer, told him he could run?

MOORE: No.

SHELTON: That's crazy.

MOORE: No, I read the statute, and I couldn't figure it out when I read it. Which is why I asked them to do the research, I didn't know the answer when I read it.

SHELTON: You talked to him, you say on the 21st? Would you know who was in the office on the 21st? Anybody indicate to you he was in the office on the 21st?

MOORE: I don't remember.

SHELTON: Of March?

MOORE: I don't remember knowing that he was in the office on the 21st. Until after all of this investigation started.

SHELTON: Okay. In your memo to him you told him, "If you take leave to make sure he fill out a leave slip."

MOORE: Yes.

SHELTON: Did he ever fill out any of those?

MOORE: Not that I'm aware of.

SHELTON: Okay. The last question I want to ask you because he had indicated that he wasn't, you all wasn't certain if he could run. So I asked him if you all had a policy book in the office or in the various offices around town where, personnel policy. Do you have those?

MOORE: We are in the process of developing them now. There was, when I came on board, there was no Department of Labor book of policies, procedures, rules and regulations. And I was told that there had never been one. Each division had, at whim, different policies and procedures. So we have just, in the last ten months, been developing a book for the entire department.

SHELTON: That's all I have, thanks.

WITT: Further questions?

RICHARDSON: Just a couple, and you may have said this already, Ms. Moore. Is Tim Moriarty still working for the department?

MOORE: No, sir.

RICHARDSON: When did he quit, and how did that come about?

MOORE: He resigned on June 8th, I think is the day. Effective June 30th. And it was a resignation in lieu of termination. By that I mean he chose to resign, rather than to be terminated.

RICHARDSON: Okay. And was that a result of, of a counseling or a mutual decision that was reached between himself and Colleen Baker. Would she be the one that would be responsible for making that decision?

MOORE: No, I had ultimately, ultimate responsibility for deciding whether he would be terminated or not. And Ms. Baker's responsibility would be to communicate that decision. She makes a recommendation to me, and then I make the decision. And....

RICHARDSON: So, the, I assume that there was some counseling or meeting, or discussion with him about the fact that he was unsatisfactory.

MOORE: Yes.

RICHARDSON: Or his work was unsatisfactory?

MOORE: Yes.

RICHARDSON: Would, did that occur between the two of you personally or was that something that Colleen did?

MOORE: Ms. Baker had a series of those kinds of conversations with Mr. Moriarty and I had one conversation with Mr. Moriarty.

RICHARDSON: And had he not resigned, he would have been terminated?

MOORE: Yes.

RICHARDSON: Okay. When was he first hired, do you know? He was there when you came.

MOORE: He was there when I

came. I think his total tenure was around ten months with the department. So I would think about October of '93 or somewhere around in there. October or November of 1993 he came on board.

RICHARDSON: Okay. Do you know, do you know who was responsible for hiring him at that time?

MOORE: I don't.

RICHARDSON: Okay. And just one other question. We've had a ton of documents to read in the last few days but it seems like, it occurs to me that I read something in maybe the "Keeping Up" from the weekend. There was an article, and I don't remember which newspaper it was attributed to that involved Mr. Moriarty and his work, or his job with your department. And the thrust of the letter was that, it had to do with campaign financing, did you see that article?

MOORE: I saw an article in the St. Louis Post-Dispatch this weekend that had to do with campaign financing. And Mr. Moriarty was featured, or his picture was featured, as the, in the, I guess you call it byline to the article.

RICHARDSON: There were some, some quotes or some comments attributed to somebody, I don't remember if it was you, or, was it you or was it Mrs. Baker?

MOORE: Ms. Baker.

RICHARDSON: There were some assertions that somehow Tim was getting some advice from Mrs. Baker on how to

launder money from, from some of the people that he was inspecting.

MOORE: That was - that was the tone of the article. Ms. Baker can tell you better than I exactly what she said. But one, and it didn't, the conversation that I am familiar with didn't have anything to do with laundering money. It had to do with explaining to Mr. Moriarty how important it was that he keep clear lines, separate lines, between his responsibilities as a prevailing wage inspector and his campaign. That he had - this was of primary concern to me. He had the absolute right to run and to campaign, but he also had an absolute responsibility to the citizens of Missouri to be a prevailing wage inspector, unfettered by whatever he was doing campaigning. So I'd instructed Colleen, and I believe she followed up in explaining to him he had to be strictly accountable for every bit of his time, on the job. And there couldn't be any meshing of time. He had to be strictly accountable for any funding, because prevailing wage inspectors do have a responsibility to assess moneys against contractors if they are found not to be paying the correct prevailing wage. So I was very concerned that we'd have clear lines between any money he was raising for himself, or his campaign, and that which he was doing as a prevailing wage inspector. So this article seemed to talk about some of the kinds of things that I'd spoken with Colleen that she make certain that Tim understand he'd be very separate and careful about.

RICHARDSON: Well, I think that advice that you're giving obviously is very prudent and

very correct. I was just curious why, what the genesis was for that particular article and where those comments came from and why a person who hasn't even been on the ballot now for three or four months as a candidate would be the focus of that kind of thing. Do you know why that article might have been run, or ...?

MOORE: I really don't know. I don't understand it either.

RICHARDSON: I don't think I have any other questions. Thank you.

WITT: If you are trying to analyze the motivations of the press, you're way beyond me.

RICHARDSON: Well, I assumed that the Department of Labor didn't call them up and ask them to do it.

WITT: I figured Representative Gaw.

GAW: Thank you, Mr. Chair. Sandra, this communication that you had in regard to Tim's wanting to know whether or not he could continue, or could be a candidate, whichever it is. Was that your conversation was with Colleen?

MOORE: Yes.

GAW: Was it your impression in talking to her that Tim's filing depended upon the response to that answer, to that question?

MOORE: That was my impression. And the reason that that was my impression is because it was communicated to me and I can't tell you what words anybody said to me, it may have just been the impression that I got that this

was very urgent. That we had a very short window in time to get this answer. And I distinctly remember being concerned that we get to the bottom line and get the information to Mr. Moriarty in time for him to file.

GAW: In time for him to file?

MOORE: That was my understanding.

GAW: And this was, this information that you were requested to find out or to look at, or that you were looking at, that search was beginning on the 21st or subsequent to that?

MOORE: I can't say, I mean, I don't know that it began on the 21st, I really don't know.

GAW: You do know when you got back to somebody though?

MOORE: Right.

GAW: And that was on the 28th?

MOORE: Yes.

GAW: All right. And it's, it was your understanding that it was urgent and I would assume, urgent from Tim's standpoint, would that be correct?

MOORE: It's my understanding that it was urgent that we get it done.

GAW: So that, so that Tim would have that information?

MOORE: Yes.

GAW: And that after he got that information, I would assume that that would affect his decision according, according to your impression about whether he was going to file?

MOORE: I don't know that I thought it, that he, I don't want to answer. I'm not sure what he was thinking. I can tell you what I was thinking.

GAW: That's what I want to know.

MOORE: As a department head, what I was thinking is that he needed an answer from us because logically that would be an important piece in anybody's decision. Once again, I'm coming out of my federal background. The answer would be no. And then I would have, as a federal employee, and I would have to decide, am I going to file, or am I going to give up my job. So from that perspective, I believed I needed to get him an answer quickly because it would be an important piece in anybody's evaluation if the answer had been no.

GAW: Did you have any information, prior to the 28th, of March, that Tim had already filed?

MOORE: No. I did not.

GAW: In fact, was it your understanding that he had not filed?

MOORE: I never really thought about it.

GAW: Did you assume that he had not filed?

MOORE: I suppose that I did.

GAW: Yeah. Did Tim's problems with, in regard to to work, have anything to do with running for office.

MOORE: Would you ask me

that question again?

GAW: Well, did you - you said that he had problems at work and I, I don't want to go into details but I do want to know whether or not he, any of that had anything to do with his running for office, or time associated outside of work during the time frame after the 29th of March?

MOORE: Well, I certainly want to answer all the questions as best I can. And I will answer that question, if you press me to. But, it's a department with 2,000 employees.

GAW: Right.

MOORE: I really have taken a policy position to try not to discuss the factors surrounding personnel issues publicly

GAW: Yes.

MOORE: because then I'm gonna be all over the map with 2,000 employees across the state. If I could answer this way and say that Tim had a history of personnel, of performance problems, which predated anything concerning running for office.

GAW: Okay. I don't want to press you any further. I understand what your position is on it, Sandra. Are you familiar with his time records on the 21st of March? Or would that be something that Colleen would be better to ask?

MOORE: Colleen would be able to answer that better. I mean I'd only be speculating based on things I've heard since the investigations began.

GAW: That's fine. Thank you Sandra, I appreciate it. That's all I have.

WITT: Further questions? Seeing none, Sandra, we do appreciate your coming today and we apologize for having you have to be here and sit all day waiting on us but we had some other witnesses that took a little more time than we anticipated originally.

MOORE: That's okay. Thank you very much.

WITT: Thank you.

WITT: Is there any feeling on the committee whether we ought to continue with the next witness.

WITT: Okay. Next we'll call Colleen Baker. I think the counsel went down. Have a seat, Colleen. Will you raise your right hand? You do solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

COLLEEN BAKER: I do.

WITT: Will you state your name and where you're from.

BAKER: Colleen Ann Baker, Kansas City, now Jeff City.

WITT: Okay. What is your occupation, Colleen?

BAKER: Director of the Division of Labor Standards.

WITT: Okay. And how long have you held that position?

BAKER: A little over a year now.

WITT: Okay. And were you with the Division of Labor Standards prior to that?

BAKER: No, sir.

WITT: Okay. Did you have an employee in the Division of Labor Standards named Timmy, Timothy Moriarty?

BAKER: Yes, I did sir.

WITT: Okay. And did he hire on since you've been there or was he there prior to your starting?

BAKER: He was already hired prior to my starting.

WITT: Okay. And did he work directly under your authority?

BAKER: He worked directly under Mr. Jim Boeckman's authority, who is my assistant director of wage and hour. And Mr. Boeckman reports to me.

WITT: Okay. And what was Tim Moriarty's position?

BAKER: He was a prevailing wage inspector.

WITT: Okay. And what was the nature of his job performance?

BAKER: The inspectors investigate complaints and assist public bodies in compliance and contractors in compliance with prevailing wage laws of the state.

WITT: Okay. And how was he as an inspector?

BAKER: As far as . . .

WITT: As far as job

performance?

BAKER: Poor.

WITT: Did you have problems with him?

BAKER: Yes, we did.

WITT: Okay. When did you become aware that Tim Moriarty was thinking about running for state representative or was going to, or had filed for state representative?

BAKER: The day he came into my office to tell me that he was running.

WITT: Okay. And what day was that?

BAKER: I believe it was March 21st.

WITT: Okay. So he came into your office and what was the nature of the conversation?

BAKER: Started with just a general conversation and then he proceeded to tell me that he had decided or was planning on filing for the state representative in the 56th district.

WITT: Okay. And what was your reaction to that?

BAKER: I had a number of concerns.

WITT: What were those?

BAKER: The first would be relative to his job performance overall. I was concerned that in light of his poor performance that he would have a difficult time maintaining a campaign also. The other concern was the overall concern I had about number one whether or not he

could remain an employee and still file for candidacy. Or be a candidate. And the concern about the potential conflict of interest in the position.

WITT: Did you explain your concerns to him at that time?

BAKER: Yes, I did.

WITT: What was his reaction to your concerns?

BAKER: I don't know that there was a real definitive reaction.

WITT: What was your impression? Was he going to go file anyway? Was he going to wait for a response? What was your impression?

BAKER: I was under the impression he was going to wait for a response from us.

WITT: Okay. And, is that the end of the conversation or did you have, did you call someone or try and find an answer for him at that point?

BAKER: I did, and couldn't find anybody available at the time.

WITT: Okay.

BAKER: So we told him we'd get back to him as soon as possible.

WITT: Okay. And did you later get a response?

BAKER: Yes, we did.

WITT: Okay. And about what time was that?

BAKER: That was later on in the week. I believe Friday of the same week. We phoned him with a verbal response and followed it up in writing.

WITT: Okay. And when you phoned him did you talk to him personally?

BAKER: Yes, I did.

WITT: You actually phoned him?

BAKER: I phoned him and reached him by message the first time. When he called me back I did give him the answer verbally.

WITT: Okay. And do you remember what the date that was?

BAKER: Friday of the same week, 25th, I believe.

WITT: Okay. So you called him and actually spoke to him on about the 25th?

BAKER: Yes, sir.

WITT: And you told him that it would be all right for him to file?

BAKER: That it would be okay for him to file and remain an employee.

WITT: Okay.

BAKER: That was our concern.

WITT: Right. What was his reaction to that?

BAKER: He was pleased.

WITT: Did he indicate at that time whether or not he had already filed?

BAKER: No, sir.

WITT: Did he indicate that now he was going to go, to go file, or anything . . .

BAKER: No, sir. I think that may have been an assumption on my part, but no.

WITT: Okay. Was there any thing else that occurred in that conversation?

BAKER: I don't believe so.

WITT: Okay. Did you speak to him any time in the next, the following week prior to the 29th? That you recall?

BAKER: I don't believe so.

WITT: Okay. Did you ever speak to him again where he indicated that he had filed or had filed later or . . . ?

BAKER: We had Mr. Moriarty come in for a meeting in Sandra Moore's office. I believe it was on the 30th. At that point in time he did say he was a candidate.

WITT: Okay.

BAKER: I don't know that he indicated he filed, quote, unquote.

WITT: Okay. Did he say, "I filed yesterday" or "I had", you know . . . ?

BAKER: No, I don't believe so.

WITT: Okay. Did, were there problems between Tim's campaign and his job as a prevailing wage inspector?

BAKER: As far as . . . ?

WITT: Did you find any conflicts or were there other, were there other, did his campaign cause problems in his job, I guess?

BAKER: Around May, they did. Yes.

WITT: Okay. And what kind of problems?

BAKER: We received some complaints that he was performing campaign activities during time when people were uncertain whether or not he was actually on duty. And it proved to be that he was actually working during those times.

WITT: Okay. And Tim Moriarty, is he still employed by the division?

BAKER: No, he is not.

WITT: Okay. And what was the nature of his leaving the division?

BAKER: Mr. Moriarty resigned.

WITT: Okay. Was that resignation in lieu of termination?

BAKER: Yes, sir.

WITT: Okay. I think that's all I have, are there further questions?

WITT: Representative Richardson.

RICHARDSON: Colleen, this may be just a little bit off the subject but I was curious about the timing of it. There was an article in Sunday's paper, St. Louis Post-Dispatch, and it talks about, basically, laundering political donations. And it starts off talking about when Tim Moriarty became a House candidate last spring and it quotes you in here a few times. Do you know, do you know what the genesis of this article was?

Did they contact you for questions or comments or how did that . . . ?

BAKER: The Post called me last week.

RICHARDSON: Last week?

BAKER: Yes, sir.

RICHARDSON: Did they indicate why they were writing an article about Tim Moriarty or why it was timely since he hadn't been a candidate in three months?

BAKER: No, sir.

RICHARDSON: Why they were writing about him. I don't have any other questions then.

WITT: Other questions? Representative GAW.

GAW: Thank you, Mr. Chair. Colleen, this conversation on the 21st? There was one conversation that you had with Tim that day, is that right?

BAKER: Yes, sir.

GAW: And it took place in your office?

BAKER: Yes, sir.

GAW: Here in Jeff City?

BAKER: Yes, sir.

GAW: Did you call him in or did he come in to see you?

BAKER: He called earlier in the day and asked if he could come in and see me. That he wanted to talk to me about something. And I said, fine, come on in, and he showed up a little later.

GAW: Okay. And then, you

don't know what time of the day that was do you?

BAKER: I really don't, I tried to go back . . .

GAW: I've seen variations on when that meeting took place.

BAKER: Yes.

GAW: It's not clear to me.

BAKER: Yes. I originally thought it may have been in the morning but I've been told by a number of parties that he was, in fact, in Jackson County that day. And, I have no recollection as far as in a calendar, a written criteria, other than I know I had a meeting that morning that lasted til ten. So, that's the only time it couldn't have been.

GAW: All right. Then, then the conversation was initiated by him. I suppose when he came in?

BAKER: Yes, sir.

GAW: And what was the initiation of the conversation? If you recall?

BAKER: Regarding the filing scenario?

GAW: Uh, huh.

BAKER: That he wanted to let me know he was planning on running or filing as a candidate for that district.

GAW: Okay. Did, did he express, did he have a question in regard to what the ramifications of that were?

BAKER: As far as maintaining his position?

GAW: Yes.

BAKER: Yes. And we did discuss it because he expressed interest in remaining an employee.

GAW: Did you, did you take it that that was important to him?

BAKER: Yes.

GAW: And what did you tell him about what you knew about whether he could or could not maintain his status at that point?

BAKER: I told him. I was uncertain myself and that we wanted to check several avenues through the Attorney General's office to verify the legality, the Office of Administration Personnel, and the Ethics Commission.

GAW: All right.

BAKER: And those types of sources to verify that it was indeed acceptable.

GAW: What was his response to that?

BAKER: He didn't seem to have a problem with it.

GAW: All right. Did he indicate to you that it was important for him to find out by a certain date?

BAKER: Yes, sir, he did.

GAW: And did he tell you what that date was?

BAKER: Yes, sir.

GAW: What was that date?

BAKER: March 29th, the filing deadline, the following Tuesday, I believe.

GAW: He told you he needed a response by the 29th?

BAKER: Yes, sir.

GAW: You distinctly remember that?

BAKER: Yes, sir. Because we were constantly pushing to address the response in order to get it to him as soon as possible, to make that deadline.

GAW: And that was because he requested that?

BAKER: Yes, sir.

GAW: I - do you have, have you looked at Tim's work records on the 21st?

BAKER: Did I look at them on the 21st?

GAW: Oh, no, subsequently to that, have you looked at his work records for the 21st?

BAKER: Yes, sir.

GAW: What does it show as far as his, his day was concerned?

BAKER: Without having it in front of me, I believe there was some time shown for travel activities and some time shown for reports and some time shown for liaison activities.

GAW: Did he, did he work a full day that day according to his record?

BAKER: Yes, sir. Sheet showed an eight hour day worked.

GAW: It showed a full day?

BAKER: Yes, sir.

GAW: Even though he was

supposed to be

BAKER: Yes, sir.

GAW: filing? And you went to Jackson County and registered to vote?

BAKER: That's what I've been told. I have no personal knowledge of that, but . . .

GAW: Does he normally work after five?

BAKER: It's not unusual for the inspectors to work odd hours. There are many times when they are called to work weekends or nights in order to meet with workers regarding a potential problem or a violation or a complaint that's occurred, so it's, it's not unusual at all for them to put in odd hours.

GAW: Was that a day, when, do you recall, did he show working odd hours that day?

BAKER: Well, they don't specify specific hours. They show on their time sheet the total hours worked that day.

GAW: Okay. Course I think he went out to dinner that night if I remember.

GAW: Thank you, Colleen, appreciate it.

WITT: Along that same line, is, was he supposed to be working a 40 hour week, eight to five? And then the odd hours were overtime, or that, or could he set his own hours just as long as he worked a 40 hour week or . . . ?

BAKER: The general instructions given to inspectors are that they are to work eight to five with their lunch, a

normal lunch break. Kind of following the office hours of that. However, recognizing the nature of their job, it's allowable for them to work those odd hours and make them up in comp time or those kinds of scenarios, yes.

WITT: Do they work out of an office?

BAKER: No, sir. They all work out of their homes. We have two inspectors in the Jeff City office. All the rest work out of their homes.

WITT: Okay. So there's no, you don't have anybody checking on them, or they don't punch a time clock. They just write down their time and submit it to you?

BAKER: They write down their time but they're also required to turn in activity logs. That gives us an indication of what kind of work they're actually performing. "Inaudible"

BAKER: That's the one.

WITT: Okay. And he reported that he had worked eight hours on the 21st?

BAKER: Yes, he did.

WITT: Okay. And what activities does he record or does that show?

BAKER: He shows professional resources and travel.

WITT: Okay.

BAKER: Four of each, four hours of each.

WITT: Okay. And the four hours of travel could be driving to Jefferson City and back to talk to you about filing for State

Representative, I guess, maybe?

BAKER: Yes, sir.

WITT: Okay. Any further questions?

SHELTON: What is professional resources? How is that defined?

BAKER: It's kind of a wide open category that we've used for research or it could be meetings with parties, trying to get information. It's a fairly wide range of activities that we're in the process of narrowing ourselves.

SHELTON: Did you ever look to see if he ever did that on that day, on the 21st?

BAKER: He submitted no activity logs whatsoever for that date.

SHELTON: So, thanks, Mr. Chairman.

WITT: Anything further?

GAW: I want to follow up Representative Shelton's. He submitted no logs, is that something that's unusual?

BAKER: Yes, sir. All of our inspectors submit activity logs on a regular basis. They're required to.

GAW: Was, was did Tim normally submit an activity log for the days of his work?

BAKER: No.

GAW: Oh, so that wasn't unusual for Tim, necessarily?

BAKER: No, it wasn't.

GAW: Okay, I just wanted to

clarify. Thank you.

WITT: Further questions. Seeing none, thank you very much I do appreciate you coming and spending your day sitting back there in the back hearing room

BAKER: I got a lot more work done than if I'd been in my office with the phone.

WITT: And now, just to keep O.L. happy, we will take a fifteen minute break. (End of tape #4)

• RECESS •

WITT: Linda will you raise your right hand? Do you solemnly swear or affirm that the testimony you shall give in the hearing now pending before this committee shall be the truth the whole truth, and nothing but the truth, so help you God?

LINDA OLIVER: I do.

WITT: Thank you very much. We apologize for having you sit over there all day long waiting on us but sometimes things take a little longer than we thought.

OLIVER: It takes time, that's fine.

WITT: Will you give us your name and where you are from?

OLIVER: My name is Linda Oliver and I'm the Director of the Corporation Division at the Secretary of State's Office.

WITT: Okay and how long have you been the Director there?

OLIVER: A little over 10 years.

WITT: I know that I have had occasion to call you a number of times.

OLIVER: I've been with the Secretary of State's Office a little over 25 years.

WITT: The reason that you are here today, I believe that Representative Wible had some questions that she wanted regarding signing of documents and with that I'll let her proceed.

WIBLE: I guess I should be the one apologizing to you. You've been with the Corporation Division for over 10 years?

OLIVER: Over 25. Right at 25 years, since 1969 when I started.

WIBLE: With the Secretary of State's Office?

OLIVER: In the Corporation Division, but I've been the Director for over 10 years..

WIBLE: So how many administrations was that?

OLIVER: Three, I started with Jim Kirkpatrick.

WIBLE: Have there been any significant changes in the way the documents are received or records are kept in different divisions since this current administration?

OLIVER: No. We've just upgraded by bar coding documents. That was done after Mr. Blunt's administration in order to input them a lot easier, and that the volume has grown but no, nothing has changed.

WIBLE: When you receive Corporate documents for filing,

tell me what a Articles of Corporation would have?

OLIVER: Normally in them?

WIBLE: Yes.

OLIVER: They have to give us the corporate name, you have to maintain a registered agent office, you have to give authorized capital, you have to tell us whether you want any stock restrictions, you have to give us the incorporators, the number on the board of directors, the duration and the purposes, that is required by law. And you can give us anything else you want to.

WIBLE: And are those documents signed?

OLIVER: Those are signed and notarized?

WIBLE: And, is that done, can that be done by mail?

OLIVER: Yes.

WIBLE: A notarized signature?

OLIVER: They can be mailed into us, right.

WIBLE: In your experience has there ever been an article of incorporation filed with a missing signature?

OLIVER: I won't say articles, I don't remember articles, but I have remembered annual reports where we get, there is 150,000 corporations and they are constantly being filed 70,000 of them are due between January 1 and April 15, so we bring on additional seasonal people who help us process those reports. I have on occasion opened up a file folder on a

corporation where we have accepted an annual report where the signature has been over looked, because of the volume coming through. I've written to those people, sent them the report, kept a copy of it, asked that they sign it, ask that they return it and all of that documentation goes inside the file.

WIBLE: Is there a notation made that . . . ?

OLIVER: My letter and everything else goes in the file. It's a permanent record then.

WIBLE: So, the date that the signature was obtained would be fairly easy?

OLIVER: We stamp them back in received again, yes. I mean it doesn't happen often, but I would say in all the years I've been there I've seen maybe two or three possibly four that this has happened with and this was done under other administrations, too. This isn't a new policy.

WIBLE: Were there times when this was done after the deadline for receiving the annual reports when it was noticed?

OLIVER: Yes, and they've probably filed subsequent documents, too.

WIBLE: And do you know who advised that those particular documents be handled that way, that signatures be obtained?

OLIVER: We had advice from our General Counsel, in all years past and there has been ten of them since I've been there.

WIBLE: Do you remember the

first one, that first time that you were ever aware of that happening?

OLIVER: No, not really. I mean I remember the first General Counsel and back at that time he would have his secretary write on documents and that was Bob Fields and the lady's name was Dorothy Mae Miller.

WIBLE: He would have his secretary do what?

OLIVER: To write to these corporations to get the documents signed and returned. It doesn't happen often, but with that kind of volume going through, it's human and it will happen to us as cautious as we try to be.

WIBLE: What other corporate document do you . . . ?

OLIVER: We file articles of incorporation, we file merger documents, amendments, dissolutions, terminations. We file limited liability companies, limited partnerships, fictitious name registrations. So there's all kinds of filings going on constantly in the office.

WIBLE: And do each of these require signatures?

OLIVER: Yes.

WIBLE: Are they all notarized?

OLIVER: No.

WIBLE: Do you know which one of those do require notarizing?

OLIVER: The articles for incorporation, the amendments, the statement of change of registered agent in office, the rest of them don't. They sign

under affirmation that the statements therein contained are true. I mean we have had documents notarized where the notary has witnessed a signature and there is no signature there, usually we try to catch them ahead of time.

WIBLE: Would you go through that again?

OLIVER: We have had documents submitted to us, which we've caught before we even filed them, where the notary has notarized an individual's signature but there is no signature on the document. But all documents do not have notary statements on them.

WIBLE: What has been the procedure when you have received a document?

OLIVER: Normally, if we catch them we reject them but if they somehow slip through a loop and they do get filed we ask for correction. Right now we ask that they take care of it right away. We phone call them. With corporations they're going to be pretty well ready to get documents signed and on file with us and get them up to date because they want to keep their corporate in good standing. But, I mean this isn't an every day process but we do have them turn up periodically.

WIBLE: Is there any follow-up in terms of the notary who signed a document, witnessed a document, or witnessed a signature that was not present?

OLIVER: Do we do it? No. We don't do a follow up on it.

WIBLE: Who does follow-up?

OLIVER: In most instances it is

usually the secretary of the attorney, because we're getting them out of law firms a lot of times. I guess we could turn it in to our commissions division. We don't. I mean it's not a standard. We don't see that many of them. Out of 150,000 annual reports alone and that doesn't even include 13,000 - 17,000 anywhere in that range on new corporations filings that we get. I would say that if you see one out of, I don't know, 15,000 you know you're doing good. It's just not often that you see that happen.

WIBLE: Notaries come under the Secretary of State's.

OLIVER: With our commissions division, yes.

WIBLE: And in terms of number total number of documents since you have been there, where it was discovered that there were some signature missing?

OLIVER: I would say three at the most.

WIBLE: And do you recall which administrations?

OLIVER: It would have been probably because I have been Director since Roy Blunt was in, from that administration on, but the practice was done under Jim Kirkpatrick administration, too.

WIBLE: How do you know?

OLIVER: How do I know? Because I handled documents of filings in that office, too, and the office was much smaller at that time. We didn't have near as many corporations. They have grown in numbers. There's letters inside files, old files, when you go through them.

WIBLE: Letters indicating that documents were being returned for a signature missing at the time?

OLIVER: Right, which was missing at the time. It is not often but you will come across some things.

WIBLE: If those documents were to have been considered invalid when they were discovered what would have been the result for the corporation?

OLIVER: Depending on what the situation was we could have probably put them out of business, dissolve them.

WIBLE: And it was annual reports which you, . . .

OLIVER: The annual reports are what, yes, is what I remember more of than anything else and we stopped notarizing the annual reports in 1990.

WIBLE: Failure to file an annual report results in forfeiture?

OLIVER: Administrative dissolution, its changed from forfeiture to administrative dissolution.

WIBLE: And are they given some kind of a grace period which to file in?

OLIVER: They have approximately seven months to file those reports. Corporations that are a tax year, calendar year owe their annual report by April 15. They have until at least July 15 to file the report. We send out another reminder notice and then we finally administratively dissolve some

where after July 15.

WIBLE: Do you know as a practical matter how well that time period is followed?

OLIVER: On a constant basis now, because we are required by law to give them 60 days notice, through the registered agent of the corporation.

WIBLE: Are there instances, though, in which corporations fail to file their annual report and they are not administratively dissolved?

OLIVER: Not unless they possible change their tax years or something extreme on us.

WIBLE: So who is in charge of following up on annual report filings to determine whether or not they are . . . ?

OLIVER: We try, its all computer generated and we try to keep our programs upgraded to go in and constantly read the records of the corporation.

WIBLE: Do you have a full time employee doing just that?

OLIVER: Yes, we have more than one full time employee doing annual reports.

WIBLE: And you're pretty sure that time line is followed? - I'm not suggesting you do it sooner than that but you're pretty sure you don't wait later than those dates, because they have actually until July 15 or send them a reminder?

OLIVER: They are sent a reminder anytime after May 15, 30 days after the initial due date, so if the initial due date is April 15, they are sent a

reminder any time after May 15.

WIBLE: And then they would be dissolved?

OLIVER: They're given approximately 60 days to get it corrected or they could be dissolved. We unusually alot anywhere from 65 - 90 days to come in and get filed, because it is easier to get those annual reports on file than it is to put corporations back on good standing again. Anyone who has experienced it will know what I'm talking about because you have to get a clearance letter from the Director of Revenue that all taxes are paid. I mean once we dissolve then you go through a different step procedure.

WIBLE: Do you if there was ever a legal opinion written as to the appropriateness of getting signatures on documents at a later time and documenting when they were filed?

OLIVER: Not that I'm aware of. I never seen any documentation.

WITT: More questions. Linda, it just took a few minutes but you had to wait a long time.

OLIVER: That's all right.

WITT: Before you leave I would like to publicly to say because I have had a lot of dealing with you and with your office and it is one of the most pleasant offices to deal with in all of state government. So I do appreciate the way you run that office.

OLIVER: Thank you.

WITT: Next we will call Jim Kolb. (End of tape #5)

WITT: Have a seat please. Will you raise your right hand? Do you solemnly swear or affirm that the testimony that you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

JAMES R. KOLB: I do.

WITT: Will you tell us your name and where you live?

KOLB: My name is James R. Kolb, K-O-L-B, I live at 915 Primrose, Jefferson City, Missouri.

WITT: Where have you been employed or have you been employed at the Secretary of State's Office?

KOLB: I was employed with the Secretary of State's Office as the Executive Deputy Secretary of State.

WITT: What time period was that?

KOLB: January 11, of 1993, until a week ago last Tuesday, which was the 20th of September.

WITT: Okay. And all of that time was spent under Judi Moriarty, the current Secretary of State?

KOLB: It was.

WITT: In regard to the filing of Tim Moriarty, when was the first time you became aware that Tim was thinking about or was considering filing for State Representative.

KOLB: It was sometime before the filing. I had a discussion

with Secretary Moriarty. She asked me what my thoughts were. I can't give you an exact date or even a time I would say, early in the year. She, as I said, she just asked me what my thoughts were and asked me if I saw any harm in him filing, if it would affect her in any way. And I at the time told her that he's his own person, that he should be able to make his own decisions.

WITT: After that initial conversation, did you ever have any conversations with Tim Moriarty about his filing prior to him coming to the office to file?

KOLB: Not with Tim prior to his filing, no.

WITT: Did you see Tim Moriarty come to the office on March 21st?

KOLB: I know I was in the Capitol one day that Tim was there, again I don't know what day it was but I was up in the, I think I was on the 3rd floor of the Capitol halls, and I recall it because I introduced him to a past county executive of Jackson County as being a candidate for a House seat in Eastern Jackson County and again I can't tell you what the exact date was but I did make that introduction as a candidate.

WITT: And why did you believe him to be a candidate?

KOLB: I believe I thought he had filed as of then.

WITT: Why is it that you believed it at that time?

KOLB: Just from my understanding that he was in town and I was filing, again I

don't know what the date was but it was my understanding that he was there to file.

WITT: So you had had some conversation with someone that he was coming to Jeff City to file for office?

KOLB: Yes.

WITT: And when was that?

KOLB: Again I can't tell you what the date was. I don't know. I was not there when he was in the office to file, so again I don't know what the date was. I had other business up on the House floor and ran into him and I saw it as an opportunity to make an introduction, which I did.

WITT: So you don't recall who told you that he was coming to Jeff City to file on . . . ?

KOLB: I knew that he was, you know, through conversations with the Secretary that he was planning to file.

WITT: Okay. And you don't know what date it was that you saw him in the Capitol?

KOLB: No.

WITT: Was it before March 29, the last day to file?

KOLB: I am sure it was. Again, I don't know the date. The individual I've mentioned his name in both the court hearing and I think before the Grand Jury was Bill Waris, of Eastern Jackson County and possible his schedule could be checked to see what day he was in Jeff City, because he is the one I introduced him to.

WITT: So you introduced him to

Bill Waris and introduced him as a candidate. Did he say anything at that time about being a candidate?

KOLB: He acknowledged that he was or was going to be a candidate or was running for that seat in Eastern Jackson County, yes.

WITT: Did you have any further conversations with Tim on that day?

KOLB: No, no.

WITT: So you were not in the office at any time when he came in to file or came in to file and said he was going to file?

KOLB: No, I was not.

WITT: You were not in the office when you even saw him sitting at a desk filing out paper work to file?

KOLB: I was not involved in that, no.

WITT: Do you recall about what time it was that you saw him in the Capitol?

KOLB: I would think that it was in the afternoon. Again I can't tell you what time it was in the afternoon, I believe.

WITT: At that time did you hear any conversations among the staff in the Secretary of State's Office about Tim Moriarty filing or that he had filed?

KOLB: On that day?

WITT: Yes.

KOLB: No, I was upstairs on the, in the halls of the Capitol, I wasn't downstairs in the

Secretary's Office at that time.

WITT: Were you regularly in the Capitol Office at this time or about at that time period?

KOLB: I would go over, during the legislative session, I would go over two or three times a week, depending on what, you know, what was on the agenda as far as the budget or other legislative matters, but I say two or three times a week.

WITT: Were you in the Capitol Office any time between that conversation and the 29th, the last day of filing?

KOLB: Again I don't know what day it was, so I can't say that I was or was not cause I really don't know what day it was on, I just recall that he was in the Capitol upstairs in the halls and I did make that introduction.

WITT: Did you ever have any conversations with the Secretary of State regarding Tim's filing and that maybe they were holding his filing pending some outcome of his work?

KOLB: No, no.

WITT: Did you ever hear that there maybe some problems with his work and his filing for State Representative?

KOLB: No.

WITT: On the 29th, the last day to file, did you hear the Secretary of State or any one in the office talk about needing to get Tim's paper work filed, before the filing deadline?

KOLB: No.

WITT: When did you first

become aware there may be some problem with Tim Moriarty's filing?

KOLB: It was late after the filing period was over. It might have been, I've been asked that question numerous times, it was late, I'm thinking probably late May early June.

WITT: Okay. How did you become aware there may be some problem with his filing?

KOLB: During a conversation - I was over in the Capitol Office one day and the subject matter was brought up during, I was really over there on other business, but the subject was brought up and mention was made of it.

WITT: Who was making mention of it, do you recall?

KOLB: I think Joe Carroll and Randy were there, Randy Sparks, but the comment was made that it was a clerical error and it was their responsibility to take care of it. It had already been taken care of apparently at the time

WITT: Was the Secretary of State present at that time?

KOLB: Yes.

WITT: Okay what was her reaction, do you recall?

KOLB: Well, I think it was just acknowledgement that it was a clerical error.

WITT: Okay, and it was your belief from the conversation that the clerical error had already been taken care of?

KOLB: It had already been

taken care of because this was quite some time later.

WITT: Did they say what the clerical error was?

KOLB: Well, there was a missing signature.

WITT: Did they say which signature or both signatures?

KOLB: No, I don't recall that.

WITT: Did you ever have any conversations with the Secretary of State regarding this either subsequent to that or hear her discussing it?

KOLB: Not really after that, no, the elections function was not something I was directly involved in and did not really have discussions on.

WITT: Did you ever hear any of the office staff talking about either Barbara Campbell or Nadine Barrows or Margaret Freeman or any of them talking about the filing of Tim Moriarty or how it happened?

KOLB: No, no.

WITT: It seems interesting to me that the Secretary of State would come and ask your advice on whether or not it was going to have any political impact whether her son ran or not but then when they have a problem with his filing and that could have significant political impact, she didn't ever discuss that with you.

KOLB: I was not involved in the political filing. That was something handled through the Elections Division and I would presume that those conversations were with the

staff from that division and not with me.

WITT: But you were an advisor to her on issues and she came to you for advice on various issues, didn't she?

KOLB: On some issues, yes, not all, of course.

WITT: At any time have you ever heard any office staff, anyone that works for the Secretary of State talk about a document being deleted from the computer or records being deleted from the computer.

KOLB: Not other than what has happened after this has been all been brought out in the air, no, through the media and everything else, no.

WITT: Have you heard anyone say that they deleted that record?

KOLB: No. I knew there was suspicions when the computers were taken out of the Capitol and looking to see what was in them and what wasn't and that was at the time when that particular allegation was brought forth, but other than that no.

WITT: Did you ever call Tim Moriarty and tell him that there was a signature missing from his document that he needed to, needed to come down and sign them?

KOLB: I did not, no.

WITT: Did you ever call Barbara Campbell or talk to Barbara Campbell and tell her she needed to go sign those documents?

KOLB: I did not.

WITT: Did you ever call over to the Elections Division and tell anyone over there that Barbara Campbell was coming over to sign some documents?

KOLB: I did not.

WITT: Were you present when or did you hear Judi Moriarty tell Barbara Campbell to go sign the documents?

KOLB: No, I was not present.

WITT: Did you, were you aware that Judi Moriarty had told Barbara Campbell to go sign those documents?

KOLB: No.

WITT: Did you hear anyone indicate that Barbara Campbell had signed those on her own?

KOLB: Not until after this was again brought out in the media, no.

WITT: At the time that filing was closing, the end of March at that time, what was the relationship between Barbara Campbell and the Secretary of State?

KOLB: That's something I think you probably ought to ask the Secretary of State.

WITT: Well, but just from your observations in the office.

KOLB: My observations at the office were that Barbara was pushing her way into a lot of different areas that she was not originally assigned to, that she was expanding her role on her own volition not by direction of others in the office and it's something I was concerned about from the very beginning and I told Secretary Moriarty

that when she was hired.

WITT: Okay. But now, but between the two of them, were they on a friendly basis at this point?

KOLB: I think they were on a friendly basis, yes. I didn't see necessarily any hostility, no.

WITT: I think that's all I have, were there other questions?

GAW: You had concerns at the beginning when Barbara Campbell was hired that she would expand her authority in the office?

KOLB: I was concerned at the time that she was hired, the type of person that was being hired. Yes, and I told Secretary Moriarty.

GAW: Did you know Barbara Campbell previous?

KOLB: No, I did not. I interviewed her with Secretary Moriarty and I looked at her resume and based on my interview with her I felt that the woman we were replacing was a tremendous worker, what I called a high powered Indian, and my observation was that we were replacing her with another chief and we did not need another chief in the Capitol Office and I was very concerned about that. And that observation turned out to be true, because she wanted to delegate the work to other people and didn't want to do it herself.

GAW: Did you at that point, you told her, the Secretary, of your concerns prior to hiring?

KOLB: I told the Secretary my concerns, in fact, I told Barbara Campbell of my concerns of what

my observation was, I told her that.

GAW: At the time of the hiring?

KOLB: At the time of the hiring.

GAW: So the Secretary of State knew about your concerns prior to hiring Barbara Campbell?

KOLB: She was aware of them, yes.

GAW: And she hired her anyway?

KOLB: She did.

GAW: And then subsequent to that she turned around and hired her husband, Charles Campbell, is that correct?

KOLB: That is correct.

GAW: Did you also recommend against that hiring?

KOLB: I did not feel that it was a good idea to have a husband and wife team working in the same office.

GAW: Was that position that Charles Campbell was hired for, was that a position that was there at the time he was hired?

KOLB: It was not.

GAW: And how did that come about?

KOLB: It was paid out of lapsed funds.

GAW: What do you mean by that?

KOLB: Money that wasn't used for vacant positions that hadn't been filled.

GAW: Isn't it true, Mr. Kolb, that you all have some short handedness over there, at least that you make statements in regard to budgeting that you're short handed over there from time to time and that you would like to have more budgeted for additional employees.

KOLB: We have not requested many additional employees during our appropriation hearings. I think we did request some in local records and they were paid out of local records funding, but other than that I don't that we ever, we did have some new positions but not but, we did not plea on that basis, no.

GAW: You did not request additional employees in the Secretary of State's Office?

KOLB: Yes, we did.

GAW: And yet despite that there was a position created out of existing funds?

KOLB: That's correct.

GAW: Initially, Mr. Campbell was hired at a salary that was later increased, I believe, is that correct?

KOLB: His salary was not increased, no. I think he was hired at the salary and I think that remained the same.

GAW: It was my understanding that initially when he was hired, and I may be incorrect, initially when he was hired, he was hired for one level position that was fairly quickly after that that was changed to a Deputy Directorship.

KOLB: Well, no, he was hired as a Deputy Secretary of State, I

believe and his salary was commensurate with that, I believe. I would have to check, if I can still do the checking.

GAW: It is your impression that initially he was hired for approximately what salary?

KOLB: I think it was around \$42-43,000.00, I believe.

GAW: And if those were lapsed funds, I would assume that would mean you basically combined at least two positions into one?

KOLB: It was money that was accumulated out of positions that were not filled until maybe two or three months later and what we call lapsed funds.

GAW: So in essence you created another chief?

KOLB: Basically yes, yes.

GAW: Not another Indian?

KOLB: That's correct.

GAW: That was the Secretary's decision or yours?

KOLB: That was the Secretary's decision.

GAW: Now in your testimony here, you don't really know anything personally about what went on with this election filing, am I understanding that?

KOLB: I was not involved in the election filing, that is correct.

GAW: And you claim to have no knowledge about that?

KOLB: That is correct, other than the discussion that I mentioned to Representative

Witt, that it was late after the problems were really brought out.

GAW: And when you were introducing Tim Moriarty in the Capitol, was that in the Capitol?

KOLB: It was in the Capitol. I think it was on the third floor, up on the north what I would call the river side of the chamber.

GAW: You don't remember what day that was?

KOLB: I don't remember the date, I really don't.

GAW: Do you remember the month?

KOLB: I guess it was sometime in March, I don't know.

GAW: Do you know that for sure?

KOLB: I don't know, no, I really don't. I didn't have it on my calendar to show a date that I was over in the Capitol and that he was there, so I don't know, it would be speculation for me to say it was March.

GAW: Mr. Kolb, I'm a little curious. I understand that Juli Rodenburg was in here testifying earlier today, were you aware of that?

KOLB: I knew she was here, yes.

GAW: I understand that after she left the room here you and she engaged in extensive conversation?

KOLB: Not extensive, I saw her outside here was all. It was not more than probably three or four minutes.

GAW: Other people say it was much longer than that, they wouldn't be telling the truth?

KOLB: I don't think it was any longer than that.

GAW: What was the conversation about?

KOLB: How's she doing, how was it? Were you grilled pretty hard? That was about it, didn't get into, she showed me her hand and it was shaking, that was about the extent of it.

GAW: No specifics?

KOLB: No specifics, no, I didn't ask her what questions were asked or anything.

GAW: If your conversation was longer than that then your testimony that it was not longer than two or three minutes and that was the extent of your conversation?

KOLB: And that was the extent of our conversation. I did not ask her any specific questions that were asked. I did ask her, I said was it primarily on the filing or did they get into management or what and she said they it was primarily on the filing but that some of the questions were asked with my relationship with Barbara and really that was the extent of it.

GAW: Did you ever have any conversations with Juli previous to this day about the filings on Tim Moriarty?

KOLB: Prior to day? Are you talking about since this has been in the media on...?

GAW: Yes.

KOLB: We've talked about it,

yes. I was with her for 8 hours here today, but did not really discuss the filing procedures, what happened, who did what, no.

GAW: You've never discussed that with her at any time?

KOLB: No, any great detail, no.

GAW: Have you ever discussed it with anyone else that works upstairs in the Secretary's Office?

KOLB: I have not. I have been on administrative leave since the 14th or the 16th of July and I have not been in the Missouri State Information Center since.

GAW: Have you ever had any discussions with the Secretary about the filing of Tim Moriarty?

KOLB: Outside of what has been published in the media, no.

GAW: You have not had any discussions with her in regard to the filing?

KOLB: I'm confused as to what your question is, Representative, can you be more specific on that?

GAW: Have you had any conversations with the Secretary of State in regard to Tim Moriarty filing for this House seat that he was supposed to have filed for?

KOLB: Well, as I told the Chairman earlier we did discuss it prior to him filing. She asked me what my opinions were and I told her. We, I found out about it, you know, the problem, in a meeting when I was over in the Capitol Office one day after the fact. It was brought up in discussion and that the comment was made that it was clerical

error and it should be our responsibility to fix it, but that was after the fact. It was much later, I mean it was late, late May. Other than that I have not had any discussion with her concerning this matter.

GAW: Ever had any discussions with her since that about Tim Moriarty's filing?

KOLB: I probably only had about four or five discussions with the Secretary since I was placed on administrative leave and it basically was not regarding Tim Moriarty's filing, no.

GAW: You were her, basically head chief?

KOLB: I was.

GAW: Is that right?

KOLB: Yes.

GAW: And did she seek counsel with you while you were her head chief about decisions?

KOLB: On certain matters, yes, that I was involved in.

GAW: Did she have somebody else that she sought counsel from?

KOLB: If it dealt with her division she would deal directly with them, again, this was an elections matter that did not deal directly with me.

GAW: I have no further questions.

WITT: Go ahead, O.L.

SHELTON: You say you weren't in the Secretary's Office when Barbara Campbell was

instructed to go down to the Information Center to get her signature on the declaration.

KOLB: I was not.

SHELTON: Where were you?

KOLB: I don't know, I wasn't there.

SHELTON: You weren't in the Capitol?

KOLB: I don't know.

SHELTON: Why would the chief of staff be located in the Information Building?

KOLB: Well my main responsibility was to oversee the activities in Missouri State Information Center, not the Capitol activities. My main function was to oversee the activities in the other building.

SHELTON: Who oversaw the activities up here? Who was in charge here?

KOLB: Well, that was somewhat of a grey area, because . . .

SHELTON: What was your title?

KOLB: Executive Deputy Secretary of State.

SHELTON: And your function was mainly in the Information Center?

KOLB: That is correct. I had direct responsibility for Archives, Publications, Administrative Rules, Local Records and Records Management, as well as the personnel.

SHELTON: Now who was in charge of the Capitol Office?

KOLB: Secretary Moriarty was generally responsible for the Capitol Office and in her absence then I would, they would call me for advice and I think the people that were there, the people that were in the Capitol Office thought that they answered directly to Secretary of State Moriarty.

SHELTON: In your role as Deputy Secretary of State did I hear you, understand you, to say that on many occasions or several occasions you offered advice to her?

KOLB: If she asked me, yes, I would.

SHELTON: Did she ask you about hiring Barbara Campbell?

KOLB: She did.

SHELTON: What was your?

KOLB: I told her that I thought it was a bad choice because I considered her another chief and what we needed was a high powered Indian. We needed somebody to put out a lot of hard work, a lot of letters and somebody that would mix in well with the people over there. When I asked her if she knew WordPerfect, she said, "That is not my forte," and that concerned me because I felt that we needed somebody that could put out a lot of letters, do the correspondence that was necessary to the constituents, do the scheduling that was necessary to assist the Secretary's administrative assistant in charge of scheduling and when she said that is not my forte, yes I was concerned. I

saw it as being a person that wanted to delegate work to others and not do it herself. So I expressed that concern to the Secretary, yes.

SHELTON: And when Dr. Campbell came aboard you also gave your advice that you didn't think he should be employed?

KOLB: I didn't like the idea of a husband and wife team working together in the same office.

SHELTON: What was her reaction, I know what the end result was but what was?

KOLB: Her reaction was that he needed a job and he sold his business and she wanted to try to help him. Being a good Samaritan that she was, she wanted to try to help him.

SHELTON: You have a daughter working at the State Library?

KOLB: I do not now, no.

SHELTON: She did?

KOLB: She did.

SHELTON: Were you influential in getting her that position?

KOLB: I gave her resume to the State Librarian prior to the State Library being part of the Secretary of State's Office and asked that she interview and if she fit into their mode ask her to interview her and that was it.

SHELTON: But you did not order Ms. Hightower . . . ?

KOLB: I did not order her, no. I was not in a position to order her. She did not work for the Secretary of State's Office. She

was still under Higher Education, under Dr. Charles McClain. I gave her her resume and asked her to take a look at it and she hired her.

SHELTON: About this budget business, usually when there is lapsed funds don't they usually revert to General Revenue.

KOLB: Quite often they do. I think you know Representative that quite often state agencies fill positions with lapsed funds. I think you know that, I trust you do.

SHELTON: It has been my experience at least in the last six or seven

KOLB: I'm not saying it's right, don't misunderstand me.

SHELTON: years we have tried to stop that and when state agencies have, especially those that come before General Administration when they brought new employees, they asked for that in the budget and not use lapsed funds and I'm quite sure, that, well, anyway. Well what, did you give her any advice on using these lapsed funds to hire new people?

KOLB: She asked where the money could come from and I told her that there was money, you know, in the budget from vacant positions that, that was about all that could be done.

SHELTON: Were there any other positions used up, hired because of lapsed funds?

KOLB: I don't, not that I can recall at this time. I would have to go through each one of the positions that has been brought on, not that I can recall at this time, no. I think actually he was

put into an administrative assistants position and was called a Deputy Secretary of State so there was part of a position there but it did not pay the salary that he was being paid. So part of it was out of lapsed funds but the other, the major part of it was the administrative assistants position.

SHELTON: Jim, you know there has been a lot of testimony that has come before this committee where you have been the center of attention, talking about conflict with staff people, principally Barbara Campbell, Dr. Campbell. I would like to give you the opportunity to clear the air somewhat. What kind of a conflict did you have with Dr. Campbell?

KOLB: The first conflict I had with Dr. Campbell was on, I know the date very well, it was April 2. It was a Saturday. He called me at home and asked me to come to the Capitol Office, said he had something very important to talk to me about. I agreed to do that and I came into the Secretary's Capitol Office. He was standing there waiting for me and we chatted for about five minutes and all of a sudden he had the organizational chart and said, "This isn't going to work." I said, "Well what's not going to work?" He said, "You have me at the same level as the other Deputy Secretary of States." I said, "Well, as far as I'm concerned that's the position that you should be in; that's where you are. We have three Deputy Secretary of State's and you're one of the three. I'm the Executive Deputy and then there is the Secretary of State, Secretary Moriarty." And we had a long heated discussion

concerning that he made statements to the effect that well Secretary Moriarty asked that I come to work here so that I could keep an eye on you. I said, "Well Secretary Moriarty never told me that." He made other statements, that well the final statement was that, "If we don't do it the way that I want it I've got enough on you to hang you, right now." He had been on the job two months and 28 days and to me it was an absolute threat and he had told me that he had been there for two months and 28 days trying to build a file on me and I was quite upset about it. I asked him what he thought needed to be done and what he was asking for and he gave me a new organizational chart that he had written on and showed him at the same level as me and above the other Deputy Secretary of States and I said until Secretary of State Moriarty tells me differently, its going to remain the way it is. I said secondly, I resent you taking that off my secretary's desk because that organizational chart has not yet been distributed among the staff. Because I had not you know, finalized it. And he denied that he did that and I said, "I want to tell you something. Last night when I left the office, it was 5:30 quarter till 6 I put it under some papers on my secretary's desk and you have it this morning." I said, "I resent you doing that." That was one instance. Later on there were other things that came up I called him.

WITT: Let's bring this back a little bit. We've been concentrating on the filing of Tim Moriarty and not to get too far afield of that to those allegations, we can limit our

questions some what to that.

SHELTON: I respect the wishes of the Chair, and I will try to do that, but I figured we were going to try to evaluate the or trying to make a determination as to the future of the Secretary of State, I think we ought to have to have a broad understanding of what happened in that office and how it happened, but I will try to stick to the point. Do you know Tim Moriarty?

KOLB: I know Tim.

SHELTON: Do you know anything about his filing?

KOLB: Again, what I know about his filing, I've already said here today. You know, it is that my understanding that I thought he had filed, I saw him in the Capitol one day and made an introduction. My understanding was that he was a candidate for a Representative in Eastern Jackson County and I introduced him as such and no denial was made when I did.

SHELTON: Where is your office at the Information Center?

KOLB: It's on the third floor.

SHELTON: On the third floor. Is it close to the Elections Division?

KOLB: The Election Division is pretty much in the middle of the building. My office is at the far north end, what I would call the far side, close to the river.

SHELTON: Did you ever see Tim Moriarty in that building at any time?

KOLB: Not in the Information Center, not there for filing

purposes

SHELTON: During the filing period?

KOLB: No. Of course, he wouldn't file there. The filing was handled in the Capitol Office.

SHELTON: Did you have constant communications with the elections people?

KOLB: Not constant, no.

SHELTON: Did they report to you, you say you were the Deputy Secretary of State?

KOLB: By the organizational chart you would think, yes, but no they did not, they reported pretty well directly to Secretary Moriarty, they didn't come to me for advice on petitions, things of that nature. They pretty well went directly to the Secretary on matters of that nature. I was not consulted on a daily basis by them at all.

SHELTON: I have two organizational charts. There's been some minor changes. Let me ask you, is this the organizational chart that was operating in the office when you left, generally?

KOLB: No, there was a revised one that was in operation.

SHELTON: So you had no line authority over the Capitol Office staff people. You couldn't go in and tell Barbara Campbell what to do or Juli Rodenburg?

KOLB: I would go in and have discussions with them, but generally, their direction generally came from Secretary Moriarty. I did not consider

myself to be the supervisor of Freda McKee, Marie Gladbach, Carolyn Smith, or the communications director. They generally had direct line authority to Secretary Moriarty and that's the way it is shown on the organizational chart. I think if you'll look at that organizational chart you'll see that. I would go and discuss matters with them and they would be very willing to cooperate, but generally the direction came from Secretary Moriarty.

SHELTON: Let me ask you this, do you have any concerns about the future of Judi Moriarty?

KOLB: Sure I do.

SHELTON: What are they?

KOLB: I'm concerned about what happens to her. I'm concerned about what happens to, you know, anybody that devotes their self to public service.

SHELTON: Maybe I should have asked that to some of the other people on the staff right here, but, you know, it's really amazing, you know, the top people there are only four people down on the elections division, nobody knows anything about, you're the Deputy Secretary of State, you don't know anything about it?

KOLB: That's correct.

SHELTON: The staff who works in the Capitol Office, they don't know anything about Tim's filing, they don't know what happened to the document, when he came in, when he signed, who saw it. That's strange. Is there a some fear

among the staff that they are going to be indicted or they are going to go to jail?

KOLB: I don't have any fear, Representative, I've been fired.

SHELTON: I read that. Are you looking for a job?

KOLB: It's sort of ironic that there are three people out there that have maybe misled the Secretary.

SHELTON: You weren't one of them.

KOLB: I wasn't one of them, but I'm not working. I have, you know, I have the sense of humor to laugh about it. It's unfortunate but I am not afraid to say anything other than the truth and I have not varied on anybody that I have talked to, because I'm telling everything exactly the way it is.

SHELTON: Let me ask you two other questions, do you have any knowledge of any documents being torn up from the Secretary of State's Office, specifically the declaration?

KOLB: I do not. No, it's never been mentioned to me.

SHELTON: Do you have any knowledge of the declaration being deleted from the computer?

KOLB: I do not. The only thing I know is that the computers were seized and my understanding was, was that when that was done that they were looking to see what was in there, whether it was political material or what, and obviously nothing was found because my understanding is that, even though something is in the

computer and if it's deleted it can still be found.

SHELTON: Mr. Chairman, with that I would just conclude by saying, you know, from all, a lot of the testimony we've heard before this committee seems like, nobody was in charge of the Secretary of State's Office. Everybody was in charge of themselves. That's my observation as a member of this committee and that's sad.

WITT: If I can interrupt with a couple of questions here. You'll get your chance. How well did you know Tim Moriarty, prior to this?

KOLB: I had met Tim on occasion with his, during the campaign with his mother. I've probably talked to Tim, maybe once or twice a month at the most.

WITT: Your secretary at this time was Leigh Anne Tolson?

KOLB: That's correct.

WITT: Was she connected with the Moriartys and did she know Tim?

KOLB: Other than through the campaign that would have been all 'cause she was my secretary prior to coming to Secretary of State's Office, but that would have been the extent of it.

WITT: Did you have a conversation with Tim Moriarty on March 29th about 6:00 in the evening, that was the last day of filing?

KOLB: Not that I recall, no.

WITT: I'm sitting here looking at Tim Moriarty's home, telephone records and on 3-29

94 at 5:53 there was a call to the Secretary of State's Office, three minute conversation to 751-1430, I believe that was your number?

KOLB: 1430? No, my number was 5831. My secretary's number was 2481. 1430 is the Capitol Office. That's the main number into the Capitol Office. My number is 5831, my secretary's number is 2418.

WITT: Some one had written down here that 1430 was your number.

KOLB: No, that is the main office in the Capitol.

WITT: Okay, go ahead.

RICHARDSON: Mr. Kolb, Barbara Campbell testified here under oath that you were in Secretary Moriarty's office on the evening of the 21st and that you participated in the discussion about Tim filing, do you remember that at all?

KOLB: I do not remember that. A conversation I remember and either she's confused or I'm confused I don't know which it is. The only conversation I remember is when I was in the Secretary's Office one day the Secretary was upset that Tim had not filed his reports to the Ethics commission. That would have had to be after after he filed for office and that is the only time I can remember being in the Secretary's office when Barbara Campbell was in there and Secretary Moriarty expressed some displeasure about something happening. But that was with the filing of his report to the Ethics commission which at the time was late.

RICHARDSON: Was Tim in the office?

KOLB: No.

RICHARDSON: Who was there?

KOLB: At that time, I think it was only Secretary Moriarty, myself and Barbara Campbell.

RICHARDSON: Okay.

KOLB: But that is the only time I can remember being in the Secretary's Office with Barbara when Secretary Moriarty expressed concern about something not being properly done and at that time she was concerned about a fine that had to be paid and the report being filed.

RICHARDSON: So if Barbara testified under oath that you were there and participated in a discussion about Tim's filing and witnessed him go out in the front office and begin the filing process, she is either mistaken or she is lying?

KOLB: That is correct. I do not, I was not there and do not remember doing that. I don't know, first she says that I ordered her to go over there and sign the papers, but now I read Secretary Moriarty ordered her to go over....

RICHARDSON: Excuse me Mr. Kolb, if you would please. You know, if you want to write a book you can do that later, even I want to get through all of this in a reasonable time frame.

KOLB: I want to get past it all.

RICHARDSON: I'm talking about the 21st, in fact you

specifically remember not being a part of that conversation?

KOLB: I do not remember being a part of that.

RICHARDSON: Okay now, Barbara Campbell also testified under oath that some time early in May, that she was summonsed to Secretary Moriarty's office and that you were in there with her and that she was instructed by Judith Moriarty to go over to the Information Center and to sign her name on this blank declaration form and that she questioned whether or not she could do it a little bit later or whether she had to do it right at that moment and that you instructed her to go do it immediately. Do you recall ever being in the office? Do you recall a conversation like that?

KOLB: That might have been the day that we, the failure to file the Ethics report was noticed, but . . .

RICHARDSON: Would Barbara Campbell's signature be required on an Ethics report?

KOLB: No.

RICHARDSON: Well then why would it have happened on that day?

KOLB: I don't know, I don't know. But that is the only time I can remember being in the office when Judi, Secretary Moriarty was upset and that something had not been done properly and at that time it was Tim's failure to file his report to the ethics commission.

RICHARDSON: Did you ever look at the declaration form of

Tim Moriarty?

KOLB: No, I did not.

RICHARDSON: Never saw it?

KOLB: No.

RICHARDSON: No one ever showed it to you?

KOLB: No.

RICHARDSON: You don't ever remember . . .

KOLB: I have seen it since the proceedings started, some months ago.

RICHARDSON: Where did you see it?

KOLB: I think I saw it when it was presented to the court. (End of tape #6).

RICHARDSON: You never saw it in Secretary Moriarty's office?

KOLB: No.

RICHARDSON: Or the information center or anywhere else?

KOLB: No. I did not ask to look for it.

RICHARDSON: And you did not instruct Barbara Campbell to go sign her name to it?

KOLB: I did not.

RICHARDSON: And you were not present when Judi Moriarty instructed her to do that?

KOLB: I was not.

RICHARDSON: And if Barbara Campbell testified to that she is either mistaken or she is lying?

KOLB: That's correct.

RICHARDSON: Now you indicated that as early as April 2 things were starting to get pretty rocky with you and Mr. Campbell, is that right?

KOLB: That's correct.

RICHARDSON: And it was your perception that following that Saturday morning meeting on April 2, that Mr. Campbell had in fact been building a file on you, I think you said earlier?

KOLB: That's correct.

RICHARDSON: Would you go into more detail on that please?

KOLB: Well, when a man makes a threat that he has enough to hang you at that time I have to take it that he had already been doing something to have gathered that information.

RICHARDSON: Did he talk about any specifics?

KOLB: I asked him, "What are you talking about?" He said, "Well, you are not putting in a full 8 hour day." I said, "I'm getting here at 8:30, generally 8:30 quarter til 9:00 and I stay til 5:30 or 6:00 or even later during the legislative session." I said, "I feel that I am," and other than that he didn't give me any specifics.

RICHARDSON: He didn't talk about anything to do with Tim Moriarty's filing?

KOLB: No, no that was April 2, no.

RICHARDSON: Did he talk about misuse of state funds?

KOLB: No, not at that time, no.

Later on he certainly did.

RICHARDSON: Did he talk about any of the things that he subsequently revealed in his letter of resignation, at that time, on April 2?

KOLB: Not at that time, because, I said, I raised my hands and I said, "Hey if you've got enough on me, come and get me." And he did so.

RICHARDSON: That seems to be true.

KOLB: And we had other confrontations after that. That was the start of it.

RICHARDSON: Did he make any reference to having anything on Judi Moriarty on April 2?

KOLB: No, he did not.

RICHARDSON: Did he limit his threats or his promises to take you down to just you or was he talking about your boss as well?

KOLB: At that time it was me, just me.

RICHARDSON: Did he at any later date make any threats or promises to you or in your presence about taking Judi Moriarty down?

KOLB: He made other threats to me, yes. He made other threats to me.

RICHARDSON: Other threats to you regarding Judi Moriarty?

KOLB: No, regarding me. Regarding me, not regarding the Secretary.

RICHARDSON: My question was did he at any other time

subsequent to April 2 make any threats or promises or inferences with regard to doing damage to or taking down Secretary of State Moriarty?

KOLB: Not to me. I understand he did to her, but no not to me.

RICHARDSON: Didn't to you and didn't in your presence at any time?

KOLB: Not to me, the only threats he made to me were to take me down.

RICHARDSON: Did Barbara Campbell ever make any threats or promises to you or in your presence to do damage to or to take Judi Moriarty down?

KOLB: I don't know that you would consider the letter that she sent to Secretary Moriarty. I would consider that a threat. That was a blatant threat. It was not to me it was to her, but I've seen it.

RICHARDSON: And in her letter she made specific reference to inform Mrs. Moriarty that no one from this office, being the Secretary of State's Office, including Jim Kolb or Joe Carroll, make any negative or damaging comments about me and Charles. If this happens either publicly or informally, I will be forced to reveal the details of your son's candidacy. When did you first see that letter?

KOLB: That letter, I saw that shortly after it came out, like probably the next day.

RICHARDSON: Do you have any reason to believe that prior to April 2, that Mr. Campbell or Mrs. Campbell was in fact

creating a file as you say on Judi Moriarty, like you believed they were on you?

KOLB: I think they were devious people, that had a very difficult problem working in an atmosphere of an office like they were working in. You have to realize that they had worked together for a period of seven or eight years in a business, where the only person she had to respond to was her spouse. They came into the Secretary of State's Office and I think that she found it difficult to answer to anyone other than him. They were located in the Capitol Office together. She worked on a daily basis with him, which I think there was a conspiracy from the standpoint that when the mail was opened up in the morning she was opening the mail up and discussing it with her husband, what to do with it who it should go to, what do you want to work on. I had some problems with that, little things that were directed to the personnel director that were coming over to Charles. They shouldn't have gone to him. They should have went to the Personnel Director and little things like that. They bothered me, yes.

RICHARDSON: When was it that Barbara Campbell was transferred over to the information center?

KOLB: That was June, I think, 10th or 11th. The transfer really never took place, but there was a letter that was sent on the 14th, I believe was sent on the 14th, that it was going to be done.

RICHARDSON: Is this the letter that Barbara Campbell

wrote to the Secretary on June 14th in response to that, do you know?

KOLB: Probably, it was I think on a Thursday or Friday, maybe it was June the 9th.

RICHARDSON: Did Mrs. Moriarty confide in you about any comments that Mr. Campbell had made to her or any threats that he had made to her about taking her down?

KOLB: After the, there was a, yes she did. I think that threat was made on June 9 after Barbara and I had had a discussion. It happened in Columbia, Missouri, and she told me about that, yes.

RICHARDSON: What did Mrs. Moriarty tell you about that?

KOLB: That the threat was made by Charles that he was going to take her down.

RICHARDSON: Do you recall the specifics of what was said?

KOLB: It resulted from a conversation that I had with Barbara Campbell that morning. We were going to redirect the mail to Freda McKee, the Secretary's Administrative Secretary. Felt that she should be more advised as to what was happening in the Capitol Office and she wanted to, had been talking to Secretary Moriarty for some time about the mail being redirected and going through her. There was a problem that existed. The mail was being opened by Barbara Campbell. She was talking to Charles about it. Most of it she was taking directly into Judi. Freda didn't know what was going on and she felt that she was out of

the loop, which I was sympathetic to, Secretary Moriarty was sympathetic to. And the same thing was true of the telephone calls that they were coming into the office, they were going in directly to the Secretary from Barbara.

RICHARDSON: And so you had discussion that morning of the 9th with Barbara?

KOLB: I had a discussion that morning with Barbara and we talked about redirecting the mail through Freda. She was upset about it and felt that we were taking something away from her. And . . .

RICHARDSON: Is it in response to that that Mr. Campbell had the discussion with Judi that evening?

KOLB: Well, what happened was that I got a phone call about 4:00 in the afternoon from Barbara Campbell. They were over in Columbia. They went over to visit Secretary Moriarty's brother-in-law, Connie McLaughlin's husband, who was in the hospital. And she came, Barbara came back from that, and said she called me up and said, "Jim - Barbara Campbell, I want you to know that I met Secretary Moriarty over in Columbia today and I talked to her about the mail situation and she told me that she is happy with the way the mail is being handled and that we weren't going to change it. So it's a moot point. Put it out of your mind. She said it's not going to be done." And that's exactly the way she said it to me, I mean more harsh than that. Also on the same day I had Juli Rodenburg come over to the Capitol Office and talk to Joe Carroll about transferring

out of the Capitol to the Elections Division, because Margaret Freeman is probably going to be retiring in two, three, four years maybe and they need an understudy for her. Joe interviewed Barbara or interviewed Juli, and Barbara was quite upset about that, and she said I also talked to Secretary Moriarty about your discussions with Juli Rodenburg coming over to the Elections Division and she is very upset about that as well. I mean she said it in a very mean hateful manner. And that is another moot point so put it out of your mind. And I said, "Look, Barbara, I will discuss both of these matters with Secretary Moriarty when she gets back this evening, and when she tells me to put them out of my mind, I'll put them out of my mind. In the mean time, I'm not going to pay any attention to it." And I said, "I'm sick and tired of you and Charles getting together and putting me between you and Secretary Moriarty." She said, "Well if you don't like it stay out of it." Exactly what she said. To me it was insubordination and I would have fired her on the spot, but I'm sure if I would have said something to Secretary Moriarty, she would have said, let's take a look at it and try to get it worked out, but anyway it was a discussion after that or during that event in Columbia that Charles was upset with it and he told Judi that I'll take you down.

RICHARDSON: Did he, were you aware or did Judi talk to you about whether or not Mr. Campbell had presented an ultimatum to Judi that you are either going to have to get rid of Kolb or I'm leaving?

KOLB: I think at one time that

happened. He told everybody in the office that he resigned, that he walked out. Next day he came back and said Secretary Moriarty wouldn't accept my resignation. The fact is he never offered it to her. He told everybody that he did and she wouldn't accept it. I talked to Secretary Moriarty about it and she said, "He never offered me his resignation." She put him on administrative leave for three days.

RICHARDSON: Was she ever in fact faced with the possibility of trying to resolve once and for all the differences or power struggle that appeared to be going on between the Campbells and you?

KOLB: Well, I'm sure it was a concern of hers, and I don't know that she knew how to handle it, but it was a concern.

RICHARDSON: Did it ever come to a head, I mean face to face, let's all get in the same room, type of meeting?

KOLB: Yeah, it did and I told her that we tried at one time and we shook hands.

RICHARDSON: Was she there?

KOLB: She was there.

RICHARDSON: Was Mrs. Moriarty there?

KOLB: Yes, she was there. We talked about it.

RICHARDSON: When was that?

KOLB: That was shortly after April 2nd, a few days after that. April the 2nd was on a Saturday, I think the 4th was, the 5th was a special election, so

I think it might have been the 6th a Thursday or the Wednesday after the special election, not the special election, but the April 5th election.

RICHARDSON: But the peace was temporary?

KOLB: We shook hands and agreed to try to work things out, but we had some differences. I had a situation one day where I called over and told Barbara we hadn't received our time sheets for the month of March. All divisions submit their time sheets on a weekly basis. That Friday they come over and they are recorded in the system, hadn't received her's for three weeks and I called and told her, "Barbara, if you don't get these over by the end of the month, you're not going to get paid". I got a call five minutes later from her husband. Not from her, but her husband. Saying if you don't stop harassing my wife about these time sheets we are going to have a problem. I said well she is not different than anybody else. Everybody submits their time sheets on a weekly basis. Barbara should as well. But the call didn't come from her, it came from him.

RICHARDSON: Do you know of any reason why, let me back up just a little bit, on June 14th when this letter was written to Judi Moriarty, was Barbara still an employee?

KOLB: On the 14th she was.

RICHARDSON: When was her last day?

KOLB: I don't know. She was on sick leave for a long time. I went on Administrative leave the 16th of the month and I lost

contact.

RICHARDSON: The 16th of June?

KOLB: Yes, so I've basically been out of the loop.

RICHARDSON: But she was still an employee when you went on administrative leave?

KOLB: Yes.

RICHARDSON: Do you know of any reason why she would have feared you saying something damaging or negative about her or Charles?

KOLB: No. No.

RICHARDSON: I mean she singled out you and Joe Carroll ...?

KOLB: I didn't ask her what it was.

RICHARDSON: Had you ever made any threats or promises to her that you were going to try to destroy her back before she tried to destroy you?

KOLB: No, no. I basically, after my confrontation with Charles on April 2, I tried to stay away from it as much as I could because I knew that when you called over and tell a person submit their time sheets and you get a call from her husband, I knew that anything else I say there's going to be confrontation and I tried to avoid it, till the incident of June 9th came up.

RICHARDSON: One last question. With regard to this entire filing episode with Tim Moriarty, starting on March 21 and going all the way up into May or whenever it was the

signatures were taken, do you know anything about this episode that you have not told us about or do you know of anyone who has any knowledge about it who has not either appeared before the Grand Jury or appeared at trial or appeared before this body?

KOLB: I have continually said I was not involved in the filing process. I didn't go over there, when certain people filed, regardless of their stature if they filed for office. I didn't go over then, I wasn't a part of it. The Elections Division, even though there is a line authority through a deputy secretary of state and they generally had direct line of authority to Secretary Moriarty and, no, I was not involved in it and I don't know anybody that has not appeared before this committee or the Grand Jury or the circuit court who has been questioned regarding this matter. I don't know of anybody additional, no. And one other thing that I would like to say is that in response to what Representative Shelton made mention of a while ago, I think that I would have to go back to what Marvin Gillock the acting Executive Deputy Secretary of State has said is that 95% of the office of Secretary of State is running very effectively and there are some problems but the services are being provided by those agencies in the Missouri State Information Center. They are the service agencies. I'm talking about Corporations, Investments or Securities, Records Management, Administrative Rules, they are all operating very effectively and they know what the line of authority is and they know who they answer to, so I want to correct that if I might cause I

think the problem is in the Capitol office who responds to who. I take a lot of pride in the Secretary of State's Office even though I'm not there today. There are some good dedicated people there and I think that the office in general has been severely criticized and chastised during this entire process and its been unjust because the services are being provided.

WITT: I believe there are some additional questions.

KOLB: I'm sorry.

WITT: Representative Wible.

WIBLE: Thank you, I would like to pursue a little bit a statement you made just a few minutes ago. I believe I heard you say that or make reference to three people who misled Secretary of State.

KOLB: I think the story came out that she received poor advice, is the way it was said.

WIBLE: Would you elaborate on that, name the three people?

KOLB: Well it was in the media, the press printed that the poor advice came from Randy Sparks, Joe Carroll and Gene Wiseman.

WIBLE: And specifically how do you think she was misled by them?

KOLB: I think she felt she was mislead because you know she was told by Randy Sparks that it was a clerical error and that it should be corrected by us and again its just the, it was her statement that she been - received poor advice and again I think that is something you would have to ask her as to why.

WIBLE: I wanted to pursue it with you since you made the statement here. Do you feel that she was misled by anyone else in the office?

KOLB: I didn't say that she was misled; it was that she said she was misled. No, I don't think so, as a said I think there is some very dedicated staff there, I don't think so. I'm not saying that she was misled by the three of them. I think that the information was, as stated, that it's a clerical error and she had the responsibility to correct it. I think that Randy Sparks in his testimony here made that statement, from what I read in the media. Again I'm not saying that's the way it came out, but that's what I read.

WIBLE: In your opinion, if that advice . . .

KOLB: Pardon.

WIBLE: In your opinion, if that advice was in fact given to her that was bad advice?

KOLB: I'm not going to say that it was bad advice. I think that probably it could have been handled differently. There maybe should have been a legal opinion or something that should have been requested to verify that that was good, you know, correct advice or hindsight is always better than foresight you can look back on the mistakes you made.

WIBLE: Were you at any time a party, did you at any time over hear that advice being given or was it given to you?

KOLB: It was after the fact, as I said during the conversation. We had a meeting in the office and it was really centered

around other business, but that subject came up, and that was after, that was late May or early June when that even surfaced to me.

WIBLE: I'm sorry to belabor this point, but if you don't mind elaborating a bit more on that when that came before you in late May, who was party to the conversation?

KOLB: I was in the Capitol Office with Secretary Moriarty, myself and I think Gene Wiseman, not Gene Wiseman, Joe Carroll and Randy Sparks were there and we were talking about other matters and that subject came up. Maybe we were doing some scheduling. I don't know exactly what the other business was but the matter of why it was done came up and it was reaffirmed by Randy that it was a clerical error. It should be our responsibility to fix it.

WIBLE: Were you there discussing other business?

KOLB: Yes.

WIBLE: Do you recall who brought the issue up?

KOLB: It might have been Secretary Moriarty, I really don't know.

WIBLE: She was a party to that conversation as well?

KOLB: Yes.

WIBLE: Did you discuss that with her either at that time or following that discuss the advice that was given?

KOLB: At that time, it was brought up and the observation was made that it was a clerical

error and that it was something we ought to take care of and it was not a lengthy discussion but, the point was made.

WIBLE: And did you have any role in carrying out that advice?

KOLB: It had already been done. It had already been done. This was the first I was involved in it.

WIBLE: This was the first you were aware of it?

KOLB: This is really the first.

WIBLE: You don't recall the date do you?

KOLB: No.

WIBLE: That's all.

WITT: Representative Gaw.

GAW: Thank you, Mr. Chair. This discussion or this observation that you made in regard to the ethics commission filing, first of all where were you in Secretary of State Moriarty when you witnessed her concern about Tim's late filing on the Ethics Commission Report?

KOLB: I was in her office.

GAW: You were in the Capitol?

KOLB: Here in the Capitol.

GAW: And do you remember the date?

KOLB: I don't remember the date, no.

GAW: Would it have been . . . ?

KOLB: It was after the - It was a \$200 fine, so whatever a \$200 fine would be, I don't know how

bad it runs as far as time period to accumulate \$200 on a penalty for a your filing, but it was a \$200 fine so that would maybe give you some gauge as the time frame on it.

GAW: Do you believe it was in late April or early May?

KOLB: I would think that it was maybe mid-May sometime, again.

GAW: Do you know if this was before or after you were made aware of this signature problem on the declaration?

KOLB: I think it was before. I'm pretty sure it was before because that was late May or really early June before I even knew anything about that.

GAW: Was anyone else present at the time that you had this discussion with Secretary Moriarty about the ethics?

KOLB: Barbara Campbell was in the office, in her office at the time.

GAW: She was there also?

KOLB: Yes.

GAW: Do you know or do you recall whether there was any discussion at that time about getting that ethics report filed?

KOLB: Yes, there was.

GAW: What was the discussion about that?

KOLB: The discussion was that they were going to have to get the money from Tim to get it paid and it was going to have to be filed because there was \$200 fine on it which, I think was

paid.

GAW: Was that report filed to your knowledge?

KOLB: I think it was, yes.

GAW: Was that report filed by Tim or by his mother?

KOLB: I'm not sure on that you'd have to ask her.

GAW: Is it possible that she filed it?

KOLB: It might be, I think it might be.

GAW: And at that time was there any discussion about to your knowledge about finding out or getting a copy of Tim's signature or anything like that? Do you recall that?

KOLB: There was. I think there was a discussion of that.

GAW: Can you tell me what that was?

KOLB: She said it was going to have to be filed but she would have to put his name on it or he was going to have to come down and sign it, but that was the extent of it.

GAW: And was there any discussion at that point about getting a copy of his signature or anything to that extent?

KOLB: No, no.

GAW: She said something about she may have to sign it?

KOLB: She said, "Either I'm going to have file or we are going to have to get him down here to file it." I don't know, I think he came down because I think he

paid the penalty to do that. Again you would have to ask her, but I know there was a fine on it and I'm pretty sure it was filed.

GAW: Barbara Campbell, we got a little bit into this awhile ago. She received a raise sometime in April, is that correct?

KOLB: No, her raise was effective 1st of June.

GAW: 1st of June?

KOLB: Right.

GAW: Just prior to all of this erupting?

KOLB: It had been discussed for quite sometime and there were memorandums from both her and Charles dating back as far as the end of February and March.

GAW: Did you support this raise?

KOLB: I had problems with it.

GAW: Did you convey your feelings to the Secretary?

KOLB: Yes.

GAW: Do you recall the amount of the raise?

KOLB: The amount of the raise at the time was \$4000. What she wanted to do was to bring her up to \$30,000 and the raise that she got would have brought her up to \$28,800, I think, and then with the raise in July 1, the 3% plus \$200 it would have brought her up to \$30,000. But Secretary Moriarty told me some time back, I'm talking about late February, March that she wanted to bring her up to

around the \$30,000 salary range.

GAW: And that was done effective sometime around the 1st of June?

KOLB: Right.

GAW: Now Barbara Campbell testified about some courier sending some letter over to you at the Information Center on the 10th of June, I believe, but that you weren't there to receive it. Did you ever get a copy of a letter from her counsel or from her making allegations against you, when did you get a copy?

KOLB: Yes, yes, yes, I did. That day, I was not there at the time it was delivered, but it was delivered to my secretary who opened it and she showed a copy of it to our General Counsel.

GAW: Do you know, when did you become aware of it?

KOLB: It was later that day, I was in the office.

GAW: How did you become aware of it?

KOLB: She showed it to me, my secretary. She told me that she had already given it to Randy and that he was aware of it.

GAW: Did you have discussions with Randy Sparks about it?

KOLB: Yes.

GAW: Did you also have discussions with the Secretary of State about it?

KOLB: Yes.

GAW: When was that?

KOLB: I think it was that

Friday, which or it was the following Monday. I've got to put my base together here. The 9th was on a Thursday, because I remember that, that was the date Barbara and I had our confrontation concerning the mail and Juli's transfer so that the 10th would have been on a Friday.

GAW: The 13th is a Monday if that helps you.

KOLB: Monday the 13th.

GAW: And what was that discussion?

KOLB: The discussion was what they were going to do with Barbara to put her into a different area where she wouldn't feel that she was threatened by me. And the decision was made to move her into another area of the office, Archives Division.

GAW: Who else was a part of that discussion?

KOLB: Randy.

GAW: So it wasn't by telephone, it was in person?

KOLB: No, it was in person.

GAW: You and Secretary Moriarty and Randy Sparks were present?

KOLB: Yes.

GAW: And who made the suggestion to move her?

KOLB: Secretary Moriarty did. A letter was sent to her, it was orchestrated, drafted by Randy, I did not draft it. It was delivered to her. I did not deliver it to her. I was not, from that point on, I had no further

discussions with her, with Barbara or with Secretary Moriarty concerning it.

GAW: Is that a Division in the Secretary of State's office under the schematic on the flow chart that you are over?

KOLB: It is, but what her feeling was was that there would be another line of authority, the director of the Division of Archives, that she would be under the direction of. It was a lateral move.

GAW: But it was your feeling that you were not directly over her when she was over here are this office?

KOLB: I did not consider myself to be directly over her, no.

GAW: That's all I have.

SHELTON: Mr. Chairman, if you'll just bear with me, it won't take very long. Stick to the point. Let me ask you just generally, how do you feel about this whole issue dealing with Judi Moriarty and do you know or do think that she's done anything dishonest at this point?

KOLB: I don't think Judi Moriarty has done anything intentionally dishonest, no. I really don't, I consider her a very caring, trustworthy, honest individual who is very compassionate and has the interest of others at heart. I say that even though she has fired me and I'm hurt by that, but I don't think she did anything intentional, no.

SHELTON: I have another question. Who is in charge of the Capitol Staff when she is out of town, out of state?

KOLB: They pretty well all operate on their own. If they have problem that needs to be brought up, if they need some direction, then they would call me, but they pretty well operate on their own.

SHELTON: Okay and you made the comment when you and Barbara had a heated discussion about something, you would have fired her on the spot. What authority did you have. You are not their line supervisor, how would you have fired her?

KOLB: Well it was a figure of speech. I would have considered insubordination that she was considered an administrative aide in the Capitol Staff and to have that type of attitude with anyone whether it was myself or if it would have been the Director of Elections or the Deputy Secretary of State Corporations, if any one would have expressed that type of attitude to me it was insubordination.

SHELTON: Okay, do you know the salary for Nadine?

KOLB: I think Nadine is making around \$22,000, I'm not sure. Again I would have to check. I think it's around twenty-two.

SHELTON: How long had she been there?

KOLB: I think Nadine's been there seven years.

SHELTON: And you said Barbara was making?

KOLB: She was making 24,000, 24,500 before she got her June 1 raise.

SHELTON: And there was another lady that worked in the office?

KOLB: Juli Rodenburg?

SHELTON: Yes what does she make?

KOLB: I think Juli was making \$19,000. And again that was another thing that bothered me because they moved Juli Rodenburg over to the Capitol Office to help with the Election filing and after the filing was over she should have been moved back to the State Information Center. You really had two people, Barbara Campbell and Juli Rodenburg filling one position. That's one reason I wanted to move her back.

SHELTON: How long has Juli worked for the Secretary of State?

KOLB: Juli has been with the Secretary of State's Office probably a year.

SHELTON: A year.

KOLB: I would say a year.

SHELTON: And Barbara one year?

KOLB: A year this month I think, October, yes.

WITT: Further questions. Thank you very much, Mr. Kolb. We appreciate you waiting around for us all day.

KOLB: Thank you all, I appreciate it. Good luck to you.

WITT: At this point we have heard all of the witnesses that we have called that relate to the

candidacy filing of Tim Moriarty, the only thing that remains on that issue, I believe, is to give the Secretary of State the opportunity to respond, if I do not hear any objection, we've got some objection. . . .

RICHARDSON: Do we not consider Mr. Campbell's testimony not relevant to this?

WITT: I didn't think that it was. It didn't seem that he was in, anyway involved in the filing issues.

RICHARDSON: Well, I think he is involved. I think anywhere where Barbara is involved, he is involved. From all the testimony they were sort of like Mutt and Jeff through the whole thing. There's some allegations that have been made that he was building a file at least on the Secretary's Executive Deputy Director and there's clearly some allegations that Barbara was attempting to somehow extort or blackmail the Secretary. I would like to hear from him before we conclude our testimony on this and I also have a few more questions that I think of Barbara if she is still available.

WITT: Okay, I think that we can probably make Barbara available. On Charles Campbell it is my feeling that he has nothing relevant to offer to the issue of the filing. I'll look to other committee members.

GAW: I do not have any questions of him as far as I'm concerned.

WIBLE: I can't think of any questions I have in regard to filing.

WITT: I will attempt to find out

if Barbara Campbell can be here in the morning to hear from her. We'll then offer Judi Moriarty the opportunity to be present and to make any presentation that she wants to make at that time. We will begin at 9:00 a.m. tomorrow and the Secretary of State is welcome to attend and make a statement at that time.

BERKOWITZ: "inaudible"

WITT: You are certainly welcome to that opinion. If there is nothing further, if there is nothing further then we will be in recess until 9:00 a.m. tomorrow morning.

• ADJOURNED •

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PROCEEDINGS

October 5, 1994

REP. WITT, CHAIR: Call the meeting to order. The first witness is Barbara Campbell. Barbara, good morning. We appreciate you coming down again to appear before the committee. There were some additional questions some members of the committee had of you and we would like to maybe clarify a few issues. I want to remind you that you are still under oath from your previous testimony

BARBARA CAMPBELL: Okay.

WITT: I guess who, I've started off with the questions last time, is there anybody here that has additional questions of Barbara that they want responded to at this time? Representative Shelton.

REP. SHELTON: Let me start this discussion. Barbara could you relate to me again the date that you saw Tim Moriarty for the first time when he was about to file or he was talking about filing.

CAMPBELL: Yes, sir, the first time that I heard anything about Tim Moriarty wanting or considering being a candidate or thinking about filing was on March 21st of 1994.

SHELTON: March 21st. Okay, now in your testimony before the Grand Jury, I think it states that I did not learn that he had decided to run until March 29th.

CAMPBELL: That's true, I did not know that he had decided to run until Secretary Moriarty

told me on the 29th that he had decided to file, but there was discussion obviously on the 21st because his mother asked that I help him with his paperwork in anticipation of him filing. And I see a difference there obviously.

SHELTON: Well, explain it to me.

CAMPBELL: Sure, I think considering Tim Moriarty, according to his mother was considering filing for that office, that was my understanding and that is why she requested that I help him with the paperwork on the 21st. But it was my understanding and it still is and it is my belief that he had not decided to file and did not do that, even make the decision, again according to what I got from his mother, until the 29th of March that he decided to actually file for that office.

SHELTON: Could you explain some of the events that took place on the 21st when he came down and sat at your desk and you all had conversations?

CAMPBELL: Sure. It was well after 5:00 o'clock in the evening. It was after the office had closed.

SHELTON: On the 21st?

CAMPBELL: Yes, sir, on the 21st.

SHELTON: What makes you remember that it was after 5:00 o'clock?

CAMPBELL: First of all there were a number of things that

helped me remember that. Nadine Barrows had already left. Nadine always left between 5:00 and 5:10 in the evening. The front door was closed, that was always closed almost exactly at 5:00 o'clock everyday. The computers were off, most there were other staff members that were gone. I remember it was dark outside. It was late enough in the evening that, even when I went back into Secretary Moriarty's Office I do remember the television being on and the evening news being on her television set that she had there. The other thing that I know, that again makes it very clear that it was after 5:00 o'clock, is that part of the discussion that I had with Secretary Moriarty about helping Tim fill out his paperwork, is that I said very clearly to her that, "Well, I can't file him for office because it is after 5:00 o'clock," and she said "No, no, no, I don't want him to file for office. He has not decided to file for office. I just want you to help him fill out his paperwork so he has that out of the way."

SHELTON: So his declaration is filed on the 29th. Can you help us out on that. Did you see him on the 29th?

CAMPBELL: No, I never saw him on the 29th of March. That was the final day for filing. He was not present in the office, when I stamped, I timed in his work sheet as we did for every candidate and I did that because his mother told me late that morning, after I had asked about Tim and I said we had been

holding his paperwork, had he decided to file, she told me at that time, that "Yes, Tim is filing for office, but Tim is not coming to Jefferson City, he is not going to be here." And so she said to me to find a time when there were no other candidates in the office, when there are very few staff members, when the office was quiet, and to file him for office.

SHELTON: She told you that on what date?

CAMPBELL: That was the 29th of March.

SHELTON: About what time was that?

CAMPBELL: It was late morning when I had that discussion, when she told me to do it. I would estimate it was around 11:30 that morning. Again, I don't know the exact time, it was late morning.

SHELTON: And you filed him at 1:19.

CAMPBELL: Yes, sir.

SHELTON: And he was not present?

CAMPBELL: No, sir, he was not present.

SHELTON: Did you sign your name on the declaration?

CAMPBELL: On Mr. Moriarty's declaration sheet? Yes, sir, weeks after the 29th as ordered to by the Secretary of State, I did sign my name to that declaration.

SHELTON: But on the 29th, you didn't sign that declaration.

CAMPBELL: No, sir, I did not.

SHELTON: What did you do with that declaration?

CAMPBELL: That declaration was attached to the work sheet that Mr. Moriarty filled out, the receipt that existed for the party filing fee and it was, again, it was all attached together those documents together, and it was placed into the file drawer where all the finished completed filings were put for that day.

SHELTON: So that laid in a drawer for a period of time but it was later discovered without your signature and without Tim Moriarty's signature, right?

CAMPBELL: In clarification, it didn't stay in that drawer other than until about up until sometime 5:00 to 6:00 o'clock that evening the Elections Division staff, someone from the staff, and I don't know who it would have been, took those documents for that day over to the Elections Division and that's where they resided.

SHELTON: And who physically handed those over to the Elections Division?

CAMPBELL: Nadine Barrows always, because they were in her desk drawer, that desk drawer was in Nadine Barrows' desk and she was the person who handed those documents over on a daily basis. She was the person that the new list was run on a daily basis, the updated list that was posted and distributed for public view that was all part of that end of the day process.

SHELTON: Now clarify for us the events that caused you to go to the Elections Division and sign your name on Tim's Declaration

CAMPBELL: Sure. I don't remember the exact date, but it was probably sometime early May. I was called into the Secretary of State's office, Judith Moriarty's office.

SHELTON: By her.

CAMPBELL: Sir, I don't really remember who called me in, I just know that she requested that I come back to her office and I don't remember who told me that. I went back to her office and the door was closed and I knocked on the door and walked in. The door was not closed, I'm sorry, I walked in the door, as I walked in the door, Secretary Moriarty, told me to close the door, and I did. She was present and Jim Kolb was present. He was standing to her left at her desk and she was holding some papers and I could tell she was agitated, irritated and she said to me, she told me that she had had Nadine call the Elections Division and ask for a copy of Tim Moriarty's filing paperwork and she said, and again she had had it faxed over from the Elections Division. She said that she needed that paperwork to complete and fill out Tim Moriarty's ethics commission filing report, some report she said she had. She was upset because she said that there were no signatures on the form and I said, "Yes, I understand that." And again she had a copy of it and she said, "Well, I needed Tim's signature because I needed to copy it onto this Ethics report. Why isn't Tim's signature on this form?" And I said, "Secretary Moriarty, if you will please remember, Tim Moriarty was not present, Tim was not present on the 29th when this declaration sheet, when the form was produced, when he filed, he wasn't present,

he wasn't in the office." And she said, "I know that," but she said, "Tim has been in Jefferson City numerous times since then, why didn't you get his signature on the form?" And I said to her that I didn't realize it was my responsibility to get his signature on that form. I assumed that Elections would take care of any problems with the paperwork. And she said, "Well, why isn't your signature on it?" And I just didn't have a good answer for that, I just said, "I just didn't sign it."

SHELTON: Why didn't you sign it at the time that you put it into the computer, after it came out?

CAMPBELL: Okay, in clarification again, I didn't physically put that information into the computer.

SHELTON: Who did?

CAMPBELL: Nadine Barrows did.

SHELTON: Are you certain?

CAMPBELL: I'm sorry?

SHELTON: Are you certain?

CAMPBELL: Absolutely.

SHELTON: Well, let me ask you this, why would he come and sit at your desk to fill out his declaration, his work sheet, the most simple process, and then have Nadine do it?

CAMPBELL: Well, sir, this again is two different dates. Tim Moriarty was not there on the 29th, when the filing took place, the physical filing, the entering into the computer. On the 21st well after 5:00 Tim Moriarty sat down next to me at Nadine Barrows' desk and simply filled

out the work sheet and paid his \$50 filing fee. Nothing else took place.

SHELTON: There was no declaration filled out on the 21st?

CAMPBELL: Absolutely, there was no declaration, I produced no declaration sheet on the 21st, never, did not do it. And I know that Tim Moriarty had said, publicly I believe in a news conference that he did not sign any declaration, that he did not have anything to do with on the 21st. I did not produce any kind of a document on any computer on the 21st of March having to do with Tim Moriarty's candidacy. Absolutely none, because, my understanding was that all he was doing at the request of the Secretary of State was filling out that initial work sheet and paying his filing fee. I did not, absolutely, and I hope that I can make this clear as I have all along, I produced no declaration of candidacy on the 21st of March. The computers were turned off; I never even turned one on.

SHELTON: Do you know if anyone else produced a declaration on the 21st?

CAMPBELL: I do not know that. I have no knowledge of someone else doing that. I know that I didn't.

SHELTON: Okay, now finish telling us about how you were instructed to go down to Elections and sign the declaration.

CAMPBELL: Yes, sir. Ms. Moriarty told me that I needed to go to Elections and sign the original, of course, she had a faxed copy of it and I needed to

go sign that piece of paper, that document. At that point, Mr. Kolb entered the conversation and said, "You need to go and sign that document and you need to do it now." And I looked at Secretary Moriarty and she said, "Yes, I do want you to do it now, I want you to go sign that form." She said it is very important that you speak only to Joe Carroll or to Gene Wiseman when you go to Elections. She said, "I don't want you to tell anyone else about this." She said, "Too many people know about this already." She said, "So only speak to Gene or Joe when you get to Elections." And I said, "Do you want me to do it now?" And she said, "Yes," and Jim Kolb said, "Yes, do it now." And then Ms. Moriarty said to me, "When you get back come back and tell me that it's taken care of." At that point, Representative Shelton, I left that office, I went to get my keys for my car. I stopped momentarily at Nadine Barrows' desk and I said to her, "I'll be back in a few minutes." I had been instructed to tell no one where I was going and I did not tell Nadine. I just told her I would be back in a few minutes. Her desk is right at the front door. I left, I went then over to Elections. I went to the third floor where the Elections Division is located. As I walked in the door, Mr. Wiseman has an office that is mostly glass and he saw me enter the front door of the Elections Division. He got up out of his desk and met me in the hallway, directed me to a storage room across the hall from Mr. Carroll's office, and in that storage room were a number of file boxes, boxes, just boxes and boxes of files on a table. And I said to Gene Wiseman, "I understand that you have something for me to

sign." And he said, "Yes," and he reached and he picked out Tim Moriarty's declaration of candidacy form. The one again, it said March 29th 1:19 p.m. There were no signatures on it.

SHELTON: Did he seem friendly, nervous or upset?

CAMPBELL: Mr. Wiseman said to me, "I don't understand what the big deal is. I don't know why Judi is so upset about this." And I said to Mr. Wiseman, "All I'm doing is what I'm told, Gene." And he said, "I know, but I don't understand what the big deal is." He said, "These are just internal documents" and I said, "Well, I'm just doing what I'm told to do." I signed it in front of him and then he picked it up and at that point I left. I went back to the Capitol. Again specifically answering your question about Mr. Wiseman, he didn't seem upset, he didn't seem concerned about it. He did make the comment he didn't understand what the big deal was and those are his words and why Judi was so upset about this. So then I left Elections.

SHELTON: Before you left during that time did you see Mr. Carroll at all?

CAMPBELL: I do not recall seeing Mr. Carroll, no not at all. So then I went back to the Capitol, I went directly back to Ms. Moriarty's office. The door was closed. I knocked I opened it. She and Mr. Kolb were still in the office. I just looked at her and said, "It's taken care of, the form is signed," and she thanked me and I closed the door and that was the end of discussion.

SHELTON: Do you consider, being an employee of the Secretary of State's Office, do

you consider a signatures absent from a form a clerical error?

CAMPBELL: Representative Shelton, that is something that in this case absolutely it was not a clerical error, absolutely not. I don't know, I have never been a notary, I never have been. I am not now, I wasn't at the time I was an employee at the Secretary of State's Office. I don't understand the law and never probably will. The absence or presence of signatures on documents. But this in no way can be construed, this incident, as a clerical error. It was, again, the idea or someone trying to say that I just made a clerical error and that I took it upon myself to clean it up is a complete total misrepresentation of the facts and also if someone even believes that maybe there's just not a whole a real good grasp of the facts in this situation. No, sir, I don't believe this in any way was a clerical error.

SHELTON: Do you consider yourself an honest person?

CAMPBELL: Yes, sir, I do.

SHELTON: And you are being completely honest before this panel.

CAMPBELL: Yes, sir. Representative Shelton, I know that it is very difficult for some people to understand the concept of doing something just because it's the right thing to do. It has been four months of people who have a great deal to lose, calling me a liar, saying in some way that I've had something to gain from all of this. I find it very difficult in searching the last four months to see what in the world it is that I have gained from any of this. I sit here in

front of you under indictments from the Cole County Grand Jury because I came forward with this information. I have told this committee exactly what happened. I have told so many agencies, law enforcement, even a panel that the Secretary of State herself set up, I have told the facts to so many people I have a hard time remembering everyone that I talked to. I don't sit before you as a state employee. I'm not sitting here earning any money from the State of Missouri or the taxpayers of Missouri. I don't sit here before you an employee of the Secretary of State's Office who was compelled to come here because of a subpoena. I've come voluntarily on both cases, there is no subpoena that has been issued to me. And I would come here before you as many times as you would like me to because I think that, and again I know it's hard for people to understand this, it's I feel that from the very beginning it was the right thing to do and I have gained nothing from this and, yes, sir, to answer your original question, I have told you and the other members of your committee here the truth.

SHELTON: My final question, Ms. Campbell. This committee has two documents. Both are declarations of candidacy. You explained the one that has the 29th date on it, to the best of your recollection. Then we have another strange declaration and apparently it was produced from the Secretary of State's Office and from the information that we have received from witnesses here no one, no one, and no one, can tell us how and when it was produced. Now there are four people in the Elections Divisions down in the Information Center, there are three people who work

in the Secretary of State's Office where these documents are produced in the computer and neither of those three people can tell us anything about this document. I don't think the computer person gave us an adequate explanation, but I don't see how these documents can be produced in the Secretary of State's Office and no one, no one, knows where it came from and I'm concerned about that.

CAMPBELL: I understand, Representative Shelton, and if you would like my opinion, I'm sorry:

SHELTON: No, I'm going to ask you a question and I hope you will answer it honestly and be straightforward. Ask you two questions. One, and I'm gonna show it to you, do you know how and when this document was produced? (Handed witness a document)

CAMPBELL: This is the declaration of candidacy form that says "record not found" and contains and holds only Tim Moriarty's signature. So the first time I ever saw this document was in Richard Callahan's investigator's office, weeks, weeks, after I through my attorney brought this forward to the authorities. I had never seen this document before. I don't, and I believe there was even testimony before this committee that, I believe, Mr. Moriarty claims that in some way I had something to do with this and that I gave it to him. I understand that there were and, again I voluntarily did this, brought forward my fingerprints so that the investigators could determine if indeed I had ever touched the original on this document or what Mr. Moriarty said I gave him. I never saw this

until that date. I have absolutely nothing to do with this form. I don't know where it came from. I don't know how they produced it. Obviously it was produced off a computer there in the Secretary of State's Office. I did not do it.

SHELTON: Okay. My final question is did you at some point in time during the Tim Moriarty filing, did you destroy any declaration of candidacy for Tim Moriarty or did you instruct or order Nadine Barrows to destroy or tear up a declaration of candidacy for Tim Moriarty?

CAMPBELL: No, sir. I did not personally destroy any documents and I did not tell or order or request that anyone, including Nadine Barrows, destroy any document.

SHELTON: Okay, like I said that was my last one, but I have one more, Mr. Chairman, if you would be a little patient here. Who ran the Capitol office upstairs when Ms. Moriarty was out of town? Who was in charge?

CAMPBELL: No one, sir. No one was in charge.

SHELTON: That's all I have, Mr. Chairman. Thanks for being so patient.

WITT: I'm sorry, are you completed Representative Shelton?

SHELTON: I'm through, I'm ready for my break.

WITT: You want a long break again. I've got a couple of questions. When you went and signed the declaration of candidacy in the Information Center, was Tim Moriarty's signature on that document

when you signed it?

CAMPBELL: No, sir.

WITT: Did you call Tim Moriarty and leave a message on his machine or talk to him personally or by any manner contact him, write him a letter, to tell him he needed to come sign that document?

CAMPBELL: No, sir.

WITT: Do you know who with personal knowledge contacted Tim Moriarty and asked him to come down and sign that document?

CAMPBELL: No, sir, I have no personal knowledge of that.

WITT: Further questions. Representative Wible.

REP. WIBLE: On the 21st at the time that Tim Moriarty came into the office, do you recall having the computer printout of the candidates that had filed for office that day had already been printed?

CAMPBELL: I can assume, if I'm allowed to do that, that, yes, it had been printed, because again that was Nadine Barrows' responsibility to do so. The computers would not have been turned off and she probably would not even have left if that printout was not up on the board and then the extra copies produced for members of the public.

WIBLE: And the filings were taken until 5:00 p.m., is that correct?

CAMPBELL: Yes, ma'am.

WIBLE: And you said that Nadine left between 5:00 and 10

after 5 each day?

CAMPBELL: Usually between 5, 5:15, regularly.

WIBLE: How long did it take to produce the list of candidates that had filed?

CAMPBELL: She would usually start to run that list 4:30, quarter of 5, something like that, because throughout those 30 days very seldom did we have someone who would come in and file or very many people that would come in and file after 4:00 o'clock in the afternoon. So she would usually start to run the list 4:30, 4:15 something like that. It probably took, again, maybe 10 minutes to run it and then to place it outside on the bulletin board.

WIBLE: So it could be begun before the "inaudible" was actually completed.

CAMPBELL: Yes.

WIBLE: And this was the first date of filing? No, I'm sorry I get all these dates very confused. So you don't recall whether it had been placed on the wall, posted on the wall at that time?

CAMPBELL: No, I can assume that it was but do I know that for a fact, no.

WIBLE: Who actually took it out and placed it on the wall?

CAMPBELL: Usually Nadine did, usually Nadine herself would put it out there. Now that's not to say, of course, at times Juli Rodenburg, I would help her, it just depended, but for the most part it was Nadine's responsibility to do so.

WIBLE: Was she generally the

first employee to leave after 5:00 o'clock, Nadine?

CAMPBELL: Out of the Capitol Office, yes, Nadine was the first and really the one who left regularly at the same time in the evenings out of the Capitol Office.

WIBLE: And the others stayed for varying hours depending on what was going on?

CAMPBELL: Yes, there was no regular time that and any of the others who happened to be in the office would leave.

WIBLE: I'm sorry, you probably already covered this, but who else was there when Tim Moriarty came in on the 21st?

CAMPBELL: Marie Gladbach was present, Charles Campbell was present. I believe that Freda McKee was there. I seem to recall that maybe Juli Rodenburg was there and I do think that Carolyn Smith was in her office that evening.

WIBLE: So the office was still fairly busy.

CAMPBELL: Yes, there was still a number of people there.

WIBLE: After you went over to Elections and put your signature on the document, did you at any time after that inquire as to whether Tim Moriarty had ever signed the document?

CAMPBELL: No, ma'am.

WIBLE: Did anyone ever bring it up to you after that time?

CAMPBELL: Never.

WIBLE: Did you ever overhear any conversations about that

document after you placed your signature on it?

CAMPBELL: No, I did not.

WIBLE: Did Judi Moriarty ever question you in any detail about why the signatures were not on the document originally?

CAMPBELL: No, the only question she asked, again, it was the day she ordered me to go over and sign it. The main question seemed to be in her mind as to why didn't I have Tim at some point come and sign that form, since he had been in Jeff City so many times. And again as I said, I told her I didn't realize that was my responsibility to get his signature on the form, but other than that there was no questioning about the signatures or anything like that.

WIBLE: And on the 29th it was not you who prepared the declaration of candidacy but it was Nadine Barrows, is that correct?

CAMPBELL: On the 29th, again, it was a process, and if you are asking me did I sit down and place the information into the computer, I did not do that. But I did take the work sheet and time it in, as had to be done for every candidate to, again to get that 1:19 p.m. time to place into the computer. So was I part of the process of producing it? I would say, yes I was. Did I physically sit down and enter the information at a computer? I did not. Nadine Barrows put that information into the computer, the document was produced out of the printer, and I was part of, again, picking it up and handing it and watching the documents being clipped together and put into a drawer.

So, yes I was part of the process. I did not enter the information into the computer.

WIBLE: The training that you have received in terms of filing candidates for office, taking the documents, entering them, producing the documents from the computer, that sort of thing, would you mind just telling me how you were trained?

CAMPBELL: Sure, very simply and we received maybe two afternoons, if I remember. I remember one afternoon specifically, late afternoon, well, there were essentially two different parts of the training. The first part of the training had to do with the actual workings of the computer, getting the information put into the computer and getting the computer to produce the document. That training was essentially conducted by Mr. Hebert, Hal Hebert. And again this process of even the information on the computer is not very complex, it's simply taking the information from the work sheet placing it on the different fields on the computer screen. But Mr. Hebert made sure not only the three of us knew how to enter the information and then have the declaration sheets printed but he also made sure that his program was working. It was all part of it and he wanted to get the bugs out of it, if I can use one of his terms, so that was one part of the training. The other aspect of training, and again, it was, there wasn't much to it, was Mr. Wiseman going through some basic information about getting identification from candidates, not worrying about the ballot names and the fact that nicknames would be used. He made it very clear, again, this

was my understanding, he made it very clear that Elections and the Elections Division would scrutinize, and he did not say specifically who in the Elections Division, but there are only four employees, but he made it very clear that Elections Division Staff would scrutinize and go through every candidate filing to make sure that there were no mistakes made. He made that very clear to us. He said they would be picked up every evening. He talked about the fact that as a courtesy to the parties, to the Republican, the Democrat, and the Libertarian parties, that we would as a courtesy, take those filing fees and that the three parties, the Democrat, the Republican and the Libertarian party would all supply receipt forms to be used in those filings. We never, and I did request, at least on two occasions, some kind of written documentation about the process, and we never received any written documentation. Now I know that since all of this has come up and in the last few weeks or months but again, long after the filing process was over, and long after filing closed, and I don't know who showed it to me first, possibly the Prosecutor's Office, and I do believe it was Mr. Callahan's office, there's been some piece of paper produced that says, and it doesn't even have any kind of a title, it doesn't have any letterhead, it just has a few steps on how to file a candidate. That document, I never saw that document, never saw any kind of written explanation or directions on how to file a candidate. The first time I saw that particular piece of paper was in the Cole County Prosecutor's office.

WIBLE: And what was the training in terms of your

signature attesting the documents?

CAMPBELL: My understanding was, on the first day of filing when obviously it was very busy, Mr. Carroll and Mr. Wiseman, both Elections' officials, would be present to sign the documents for the candidates and then it was my understanding that throughout the 30 days of the filing that they would not be present, there would be no Elections Officials present. I'm sure they occasionally came in and out of the office, but there would be no one there as an Elections official during the filing process. It was essentially up to the three of us, Juli Rodenburg, Nadine Barrows and myself, to take care of the filings. It was my understanding that we did not have to sign the forms unless the candidate requested we do so.

WIBLE: Do you know, was it your understanding then that they would go to the Elections Division and be signed there?

CAMPBELL: No, it was my understanding that, and again part of this had to do with, and I know I've told you all this before, but part of this has to do with the fact that Gene Wiseman, in his words, said, "These are internal documents. They don't mean anything. They're strictly for internal use." And so there was no, no one said, "Well, if you don't sign the document, there's a problem, this type of thing just send, someone over to elections."

The filing was, the filing took place there in the Capitol Office.

WIBLE: What were you told about the candidates being present before a document was completed their filing?

CAMPBELL: We were told that, I don't remember specifically being told that a candidate had to be present, but I was told, I remember being told, that we had to identify the person filing for office. Have them prove they are who they say they are. And we were also told, please don't embarrass people who come in to file for office, if you know who they are. For instance please don't, and they used Speaker Griffin, as an example, don't ask for identification on someone like Speaker Griffin, don't ask for identification on former Governor John Ashcroft, you know who he is. Please don't embarrass the Secretary of State by asking for identification, use your judgment. So I was never told someone had to be present, but it was very clear that identification or at least personal knowledge of who someone was was important.

WIBLE: In your training were you taught how to delete declarations from the computer?

CAMPBELL: I personally was not taught how to delete, no. As far as I know the only person who ever deleted anything or changed things on the filing, and I'm sure there were things that needed to be changed on filings, but as far as I know the only person that ever did that was Nadine Barrows.

WIBLE: Do you know how to delete?

CAMPBELL: I was never taught how to do it, no I don't.

WIBLE: Do you know how?

CAMPBELL: I didn't at the time and I don't know now.

WIBLE: So it's safe to say that

you have never deleted a document from the computer?

CAMPBELL: That's correct, on the filing program.

WIBLE: You have never deleted a declaration of candidacy?

CAMPBELL: That's correct.

WIBLE: What instances would there be that someone would need to do that?

CAMPBELL: To completely delete a filing? I assume that if the Elections Division found that someone wasn't eligible under whatever criteria to run for an office, I assume that they would need to delete a filing. It seems to me that I remember that the Ethics Commission disqualified a certain number of candidates for some reason. Again, I wasn't involved in the so-called clean up of the filings in that computer system, so I'm not sure. But I can imagine there are probably a number of occasions where either deletions or corrections might even have been made on those filings.

WIBLE: What about when a candidate withdrew?

CAMPBELL: Well, I would assume, yes, they had to be taken off when a candidate withdrew.

WIBLE: So who would the instructions come to your office that a declaration needed to be deleted?

CAMPBELL: Nadine Barrows was the contact and those contacts came from the Elections Division.

WIBLE: So would it have been Gene Wiseman or Joe Carroll

that would have instructed you or could it have been any of the Elections Division employees?

CAMPBELL: I don't know who specifically would have called, because no one ever called me to do anything like that. I assume though that Gene Wiseman or Joe Carroll either one would be the people that would call from Elections.

WIBLE: Did they always ask to speak to Nadine then?

CAMPBELL: I am assuming that, Representative Wible, because no one ever called me and said there is a mistake on this or we need to fix that or we need to delete this or a name or something like that, so I assume that, first of all Nadine was the primary, the first person to answer the telephone, so if there was a call from Elections they probably got her anyway.

WIBLE: Were you ever aware of how many times she did delete a declaration?

CAMPBELL: Sure, I don't specifically remember who or what the circumstances were but, sure, just working there in the office I remember Nadine working on that system, the computer program, deleting or changing names. I can't specifically tell you the times or when she was doing but, yes, I was aware that she was somehow changing or fixing information on that computer on the filings.

WIBLE: Was Nadine ever absent from work?

CAMPBELL: During the filing? I'm sure Nadine was absent from work, sure but I don't specifically remember when or . . .

WIBLE: Do you have any theory as to why there was only one person in the office trained to do deletions?

CAMPBELL: Well, I don't have theory on it other than I think that it was just a natural evolution. It's almost like its a natural evolution that it all, that all of the filings for instance ended up in Nadine Barrow's desk on a daily basis. The first day we had three computers that we could use for filing and at some point we went from three computers only down to one computer that, and that was the one on Nadine's desk. And again I'm not, I don't know that much about computers, but I know Mr. Hebert talked about Nadine's, her terminal or her computer being the server or the main part of the network of the other two. So we went from three down to two and at some point we were down to one and it was there on Nadine's desk. So I think it was a natural evolution that Nadine took control of the filings being placed in her desk. The fact that her's was the only computer that worked at times, if for instance Nadine would have been, let's say, ill for a couple of days, I don't know if there was any great, again you would have to ask Elections officials this, I don't know if there was any great deadline or great importance in getting something off a computer very quickly. I don't know, but I assume that Mr. Hebert, if there was something that had to be done rather quickly and needed it immediately that Mr. Hebert could have come over and shown it to any of us on how to do something. (End of tape #1)

WIBLE: Did anyone from the Elections Division ever come

over and perform a test on that computer?

CAMPBELL: I don't recall ever seeing anyone from the Elections Division working on the computers, no.

WIBLE: Do you recall Mr. Hebert coming over and working on the computers other than to give an employee advice on how to perform a task on it?

CAMPBELL: The only time Mr. Hebert would ever work on the computers, is Mr. Hebert did back them up and Nadine was also responsible for backing up the computers, she did that. Mr. Hebert would make sure that the programs themselves were working. I never, ever saw Mr. Hebert ever working on a filing or ever doing anything that would have to do with those records. Of course, he did make sure that the program was running. He would come over, as I said, at some point we went from three computers, to two to one and I think we went back to two for awhile. So I'm sure that he was working on that, but I never saw him doing anything with the filing screens or the information on those filing, no.

WIBLE: How often were the files backed up?

CAMPBELL: I honestly don't remember. I know that occasionally Nadine would say something to the effect, "Oh, I haven't backed up the computers for awhile," and she would do it. I don't know on a regular basis when they were done or how often.

WIBLE: They were backed up on a floppy disk I would assume?

CAMPBELL: I don't know, I'm

sorry I'm not sure what they were backed up on. I do know again, I'm not a computer expert, I do know that that computer system there in the Capitol office was its own system. We weren't hooked into anything else. There was nothing, we weren't hooked into E-mail, we weren't hooked into the other offices with the Secretary of State's Office, it was its own little system. What Nadine backed it up on I don't know.

WIBLE: When there were three computers in there then each of you was operating a different terminal, is that correct?

CAMPBELL: Right, on the first day there were three terminals, that's correct.

WIBLE: And were they all networked so that anything that was entered on one was entered on three?

CAMPBELL: Available to all of them? Yes, well the thing is there were three computers that we used on the very first, three terminals let's put it that way, there were three terminals that we used on the very first day of filing, but there were actually five computer terminals hooked in that system into the office, okay. Two of them were part of the system and could access any information on those three terminals. There were five terminals on the same system that could have accessed anything that was placed on any one of the terminals, could have accessed the filing any time, anything like that, we just didn't use those two because of their location. So there were actually five computer terminals that had access to the filing program, to any of the documents within

that computer itself, the WordPerfect, the word processing, any of those documents kept in there. So there were actually five terminals that had access to it, but we only used at the most three of those to do the filings.

WIBLE: So that backing up, if Nadine backed up at her terminal, she would have backed up everything that was done on those three.

CAMPBELL: That was my understanding, that's correct.

WIBLE: So it was never necessary for you to know how to do back up either?

CAMPBELL: No, I never learned how to back up any computers.

WIBLE: Were you ever taught where to go if something happened to the system and perhaps Nadine wasn't there. Where would you go to access the information that had been backed up?

CAMPBELL: Sure, Mr. Hebert. Mr. Hebert was always available if something would happen with the computers and anyone that has ever worked with computers knows that there are always problems with them. Mr. Hebert was always available to help.

WIBLE: Was there anyone else as knowledgeable as Mr. Hebert about the system, the software?

CAMPBELL: Again, Nadine knew about it, I guess because she had worked with it a number of years. I'm sure there were other people, Representative Wible, but I don't know. I know I just depended on Hal Hebert to help.

WIBLE: Thank you.

WITT: Further questions, Representative Richardson.

REP. RICHARDSON: Ms. Campbell, did you have to have a password to get into the computer?

CAMPBELL: Yes, Representative Richardson, the password on all of the computers were our first names.

RICHARDSON: Okay, and of course that was programmed in so if you didn't use your password you couldn't access, it is that right?

CAMPBELL: Oh, we could access anyone's computer because we all knew, we all knew that Nadine's was Nadine, sure.

RICHARDSON: Who had passwords that were acceptable to a computer?

CAMPBELL: Well again, they were passwords in the sense that the computer insisted that you put a password in but we all knew that on those five terminals that the password was, whose ever desk it was first name, so Nadine's everyone knew that to get on Nadine's you just put in "Nadine" into it.

RICHARDSON: When you say everyone, who are you talking about?

CAMPBELL: Nadine Barrows had a terminal. Carolyn Smith had a terminal. Again her password was "Carolyn." I had one. Juli had one. And again our first names for the most part were all the passwords. And then there was one that was placed into, there was a fifth

terminal placed into Marie Gladbach's office that I don't know other than Mr. Hebert trying to get it hooked up into the system, I don't think Na, I mean Marie Gladbach every turned it on.

RICHARDSON: Now you said that you indicated to Secretary Moriarty that you couldn't file Tim because it was after 5:00 o'clock. Were you under the impression that it was illegal to file someone after 5:00 p.m.?

CAMPBELL: It was my understanding that we couldn't start the filings in the morning until the time clock said 8:00 o'clock and that we could not file anyone after 5:00 o'clock in the evenings. I don't know if the is the legality of it, that is just my understanding.

RICHARDSON: Where did you get that information or how did you come to that understanding?

CAMPBELL: Mr. Wiseman.

RICHARDSON: It didn't have anything to do with the fact that the computer was turned off though, did it?

CAMPBELL: No, sir.

RICHARDSON: Because all you have to do is just flip a switch and the computer can be turned on day or night, lunch hour anytime.

CAMPBELL: That's right.

RICHARDSON: So since that was a violation of at least the stated policy as told you by Wiseman, you felt compelled to point that out to Mrs. Moriarty, right?

CAMPBELL: Yes, sir.

RICHARDSON: Did you think that filing Tim on the 29th without him being present was wrong?

CAMPBELL: I felt, yes, sir, that it was improper to have done so, yes.

RICHARDSON: Did it occur to you that you might have been committing a crime?

CAMPBELL: No, sir. I did not know at the time, and again I did not know until I told my attorney on the 14th of June the circumstances. I did not know that it was crime.

RICHARDSON: But it did certainly occur to you that you were doing something wrong?

CAMPBELL: It occurred to me that there was something wrong and improper about what she was asking me to do, yes, sir.

RICHARDSON: But you told us earlier that you did not point that out to her at all on the 29th?

CAMPBELL: No, sir, I didn't.

RICHARDSON: Why did you feel compelled to point out to her that it was after 5:00 on the 21st and you shouldn't file him, but on the 29th when you were doing something potentially, in your mind at least, much more serious, why didn't you point that out to Mrs. Moriarty?

CAMPBELL: Why didn't I point out to her on the 29th, the feeling that I thought it was improper. Representative Richardson, I wish that I would have said to her what I felt at the time, that it was not right, that it was not proper. She is and was at the time the

Secretary of State; she was my boss.

RICHARDSON: She was on the 21st, too, when you pointed out to her that you couldn't file him.

CAMPBELL: Yes, sir, that's true, that's true.

RICHARDSON: And filing him after 5:00 in the evening would certainly be less serious than filing him without him being present. So why was it that you were compelled to point out an impropriety to her on the 21st, but not one on the 29th?

CAMPBELL: Representative Richardson, I guess you had to be there. When I was told on the 29th by the Secretary of State that her son was not going to be present, she is the Chief Elections Official, when I pointed out to her that after, going back to the 21st when I said it was after 5:00 o'clock and she said, "No, no, no." That wasn't even an issue, because he wasn't going to file that night anyway.

RICHARDSON: But it was an issue when you pointed it out to her, to you it was, right?

CAMPBELL: When . . .

RICHARDSON: When she clarified for you later or not what her intentions were at the time, at the time you pointed this out to her, you were pointing out to the Secretary of State, a policy that you believed at that point she was wanting you to violate. Isn't that right or not?

CAMPBELL: If she had told me on the 21st and it's not right, I know it's not right, but if she had told me on the 21st at the time we were having the

discussion, if she said to me I don't care if it is after 5:00 o'clock I want him filed, and I know it's not right, I would have done it.

RICHARDSON: This was some time early in the day on the 29th that . . .

CAMPBELL: It was late morning when I spoke to her.

RICHARDSON: Because you actually filed him at 1:19, so it was late morning, plenty of time to get from Lake Lottawana or wherever he was that day, right, to the Capitol?

CAMPBELL: I guess I don't understand the question?

RICHARDSON: Time wise, if she had talked to Tim in the morning, the filing deadline was at 5:00 p.m., there wouldn't have been any problem for him to drive 80-90 miles or whatever to come over, right?

CAMPBELL: He wasn't there, so I don't know if there was a problem with him getting there or not. I never asked. He wasn't there.

RICHARDSON: But that is the point, you didn't ask why he wasn't coming in?

CAMPBELL: She told me he was not going to be there.

RICHARDSON: You didn't ask why he wasn't coming in or to remind her that he needed to be there.

CAMPBELL: No, sir, I did not.

RICHARDSON: Or to say to her, now you recall he has not signed his declaration, you never said that to her, did you?

CAMPBELL: No, no.

RICHARDSON: I think that your testimony earlier was that you just assumed that she knew.

CAMPBELL: Well, I don't think I assumed that she knew, I said that

RICHARDSON: Well, your testimony last week was that I just assumed that she knew.

CAMPBELL: That she knew what, sir, I'm sorry.

RICHARDSON: That he hadn't signed his declaration.

CAMPBELL: Well, of course, he wasn't there.

RICHARDSON: But if she had believed, not being present, that he had signed it on the 21st, then she may not have realized that it was important for him to be there that day, right?

CAMPBELL: No, sir, she made it very clear to me on the 29th, that she wanted him filed and he was not going to be there, that he had decided to file. And again, weeks later when she told me to go over and sign the form, she was upset with me because she felt in some way it was my responsibility to have called or have gotten her son to go over and sign this declaration form.

RICHARDSON: I think everybody has testified that her response was, that when she discovered that he hadn't signed it was, surprise, right?

CAMPBELL: Surprise and irritation, yes.

RICHARDSON: So that may be perhaps congruent with her belief that he had signed

everything that needed to be done on the 21st and there wasn't anything left to be signed?

CAMPBELL: No, sir, that can not be construed by any stretch of the imagination because she knows

RICHARDSON: At least not by your imagination, but there are several others that have testified that seem to think that that is plausible.

CAMPBELL: I have not imagined any of the this, Representative Richardson. This is not imagination on my part, this is the truth and I think that I have tried to explain, I know that you find that very hard to believe, you personally find it hard to believe.

RICHARDSON: Let me ask you another question. We heard testimony

DAVID EDWARDS: Well, let's let her answer the last questions if we can bring some semblance of fairness into this.

RICHARDSON: She did answer the last question, the problem is.

EDWARDS: Will you let her answer the question please?

RICHARDSON: She answers that question and six others.

EDWARDS: Yes, I know, and you are going to keep asking the questions in the same way if you will just let her answer the questions.

RICHARDSON: I'll tell you what, how about if I ask the questions and she does the answering and you stay out of it.

EDWARDS: Excellent.

WITT: Let's both calm down a little bit. I believe Representative Richardson's questions are proper and we will let her answer those. If you would like to advise your client on certain legalities of answering questions, you are certainly are able to do that, but

EDWARDS: I'm going to advise my client not to answer any questions unless she is permitted to answer a question fully and unless she is not interrupted by the questioner.

RICHARDSON: Mr. Chairman, I would like for you to advise the witness to answer the questions succinctly and not to proceed with 10 minutes worth of editorializing after I have asked the question.

WITT: I think that is fair. You have expounded on your answers to an extent beyond what is necessary to answer the specific question asked. And if somebody is unclear on something, the other members of the committee will be able to ask you subsequent questions to get you to explain further what you meant. But if you would please confine your answers to the questions asked.

RICHARDSON: Ms. Campbell, we have heard testimony here from numerous other witnesses and also been given copies of reports of interviews and statements that were taken in the course of the managements team review and you have been depicted by numerous other people as being shrewd and calculating and deceitful, untrustworthy and overbearing. What would be your explanation as to why so many different

people in the Secretary of State's Office believed that you possessed these characteristics?

CAMPBELL: Can you give me a specific and may I ask, Representative Richardson, who said, I will be glad to respond.

RICHARDSON: You testified earlier to Representative Shelton's question that you felt yourself to be an honest person. Let me ask you this. Do you believe that you were perceived by other people that you worked with as being honest?

CAMPBELL: Yes, and, sir, and I think that it made people uncomfortable.

RICHARDSON: Would it surprise you then that other people you worked with or that were acquainted with you had a different opinion of you than that that you have of yourself?

CAMPBELL: Does it surprise me? Considering the situation these people find themselves in, sir, no it does not surprise me anything they say about me.

RICHARDSON: Do you believe your husband to also have a reputation for truthfulness and veracity?

CAMPBELL: I believe that, sir, yes.

RICHARDSON: Who is Kim Shaw?

CAMPBELL: I can't answer this question succinctly. I'll be glad to answer who Kim Shaw is, sir. Kim Shaw is an attorney, along with her husband, who purchased a business from me and my husband, a business we co-owned, who since that time back in '93 have chosen not to

pay us for our business.

RICHARDSON: You were in business together with them, is that right?

CAMPBELL: With who?

RICHARDSON: With the Shaws?

CAMPBELL: Absolutely not, sir, we sold a business to them.

RICHARDSON: They filed a lawsuit against your husband, haven't they?

CAMPBELL: In response, sir, to some a lawsuit that we had to file against them to retrieve our business.

RICHARDSON: In that lawsuit they have accused your husband of wantonly, willfully and maliciously attempting to extract, and I guess that means extort, money from them and it also alleged that Mr. Campbell threatened that if they didn't pay him money that he was going to see that Mrs. Shaw lost her license to practice law and was prosecuted. Is that true?

CAMPBELL: Representative Richardson, I guess you can accuse or put anything in a lawsuit, is it true? Absolutely not.

RICHARDSON: Actually it is pretty easy to accuse people of things, isn't it? Did your husband used to work for the University of Missouri?

CAMPBELL: Yes, sir.

RICHARDSON: Was he fired from there?

CAMPBELL: Absolutely not.

RICHARDSON: Did he quit in lieu of being fired?

CAMPBELL: No.

RICHARDSON: Was he accused of misallocating monies or redirecting monies to his personal benefit?

CAMPBELL: Absolutely, unequivocally, no.

RICHARDSON: Was he ever accused for the years of 89 and 90 of not filing tax returns?

CAMPBELL: No.

RICHARDSON: You're not or have not been involved in settlement negotiations with the IRS to pay those taxes for those two years?

CAMPBELL: Sir, we have had discussions and payments and settlements to the Internal Revenue Service, yes.

RICHARDSON: On taxes that were owed for those two years?

CAMPBELL: I'm not sure of the years, but, yes, on taxes owed, yes, sir.

RICHARDSON: Did you file a settlement request or an offer in compromise with them on payment of taxes?

CAMPBELL: With the Internal Revenue Service, yes, sir.

RICHARDSON: Was part of the rationale that you used to ask for reduction in the amount of taxes to be paid the fact that he had terminal cancer?

CAMPBELL: No, sir, my husband two years ago was diagnosed with cancer. In no way shape or form has anyone

ever tried to say that he had terminal cancer.

WITT: Representative Richardson, you are getting far "inaudible" dealing with her husband.

RICHARDSON: Just about through Mr. Witt, Chairman Witt. I am concerned because yesterday we were told that we would not get a chance to talk to Mr. Campbell and after all it was Mr. Campbell's allegations that started this whole thing, so I just wanted to know as much as I could about the reputation of both Mr. Campbell and Mrs. Campbell in terms of truth and veracity. This whole case comes down to having to reach a conclusion as to who is telling the truth and who is lying and I'm just trying to find out a little bit about the people that we're asked to believe here. I have no further questions.

EDWARDS: Mr. Witt, if I may. Mr. Campbell was served with a subpoena by the Missouri Highway Patrol at the request of this committee. That subpoena is on my desk at my office and Mr. Campbell was sitting there this morning and I'm sure he is probably still there. Mr. Campbell has never tried to avoid this committee. We were informed, I believe, it was possible Monday that he would not be called and that he should not appear here, but he is available if indeed there is any interest in that. I don't want this to be construed in any way that he is ducking this committee in any way.

WITT: Well there has been no allegation that he is trying to duck the committee. The position that the committee chose yesterday was that he had

no first hand knowledge or no one had even alleged that he had first hand knowledge of anything involving Tim Moriarty's filing and so as far as the scope of the committee hearings thus far we have limited it to that subject matter and without him having first hand knowledge of any of those issues it was not felt that . . .

EDWARDS: I'm just bringing this up. I don't want it to be lost on any one in this room or anyone on this committee that Mr. Campbell is in any way trying to duck any inquiry that they care to engage in either having to do with anything in their personal or business life. They are always available and they always have been.

RICHARDSON: And if I might clear that up for the record, I was not in any way trying to infer that he was not. The issue I was making was

EDWARDS: Thanks for clearing that up

RICHARDSON: between me and the Chairman of the committee on whether or not he was going to be invited to be here.

WITT: Other questions. Representative Gaw.

REP. GAW: Thank you, Mr. Chair. Ms. Campbell, earlier this week, Nadine Barrows was before this committee. I suppose you probably read a little bit about that in the paper maybe.

CAMPBELL: I know something of the testimony, yes, sir.

GAW: She took the Fifth Amendment, I don't know 10-12 times to my knowledge, in

regard to her involvement on Tim's filing, in the period including the 21st and I assume subsequent to that. Earlier she had given testimony saying that she was not involved in that or did not have any recollection of a declaration and I assumed from her taking the Fifth that now she is at least representing through non-representation that she is, that she somehow was involved. Now your testimony is, as I understand it, is that Nadine was involved in on the 29th in preparing the declaration on the computer.

CAMPBELL Yes, sir.

GAW: And do you know if prior to that date, prior to the 29th, did you know whether or not she looked at the paper work that Tim had filled out on the 21st?

CAMPBELL: Yes, sir. Nadine knew that that paper work, the work sheet, the receipt, was in her filing drawer, because I told her it was there. She in those few days between the 21st and the 29th at least on two maybe three occasions, said to me, "The paper work is still here. Has Judi said anything to you about when Tim is coming in?" Yes, she knew it was there.

GAW: Now there is some real conflicting testimony about when Tim was there on the 21st. I mean I've heard this all over the ball park about whether it was early afternoon. You say it was after 5:00. Nadine Barrows claims that she was there at the time that Tim was there supposedly doing his paper work on the 21st and she testified that she believed she was back in the copy room. Is it your testimony that Nadine was not present at the time Tim was there filling out his paper work on the 21st?

CAMPBELL: That's correct, Nadine Barrows was not in the office when Tim filled out his paper work.

GAW: You helped him fill out the work sheet.

CAMPBELL: That's correct, the work sheet and the receipt.

GAW: And that was placed in a file or was it just placed in the drawer with the other filings?

CAMPBELL: No, there's the drawer, the drawer on Nadine's desk has this accordion file in it. I don't know if it is still there, but it was there at the time and she placed completed filings in the front of that drawer. I placed Tim's paper work, that work sheet and the receipt and that \$50 cash in the back of that accordion file.

GAW: When you say in the back of the accordion file, does that mean the other files that would have been available for processing were in front of that accordion file, or were they in it also?

CAMPBELL: Well, no they were gone. That day's filings had been picked up from the Elections Division, so there were no other papers in there.

GAW: So was that the only paperwork that was in there when you placed it there that day, you recall?

CAMPBELL: That had anything to do with the filings as far as I know, I mean she had other things in that drawer.

GAW: Papers? When you say things? Are you talking about papers? What do you mean things?

CAMPBELL: I don't remember seeing other papers like in that accordion file, that type of thing. She kept stuff in the back, maybe there were papers, maybe there were boxes, that kind of thing.

GAW: You didn't talk to Nadine then on the 21st about Tim's filing?

CAMPBELL: No, sir, not on the 21st.

GAW: Did you talk to her on the next day?

CAMPBELL: I told her that the Tim's paper work, his work sheet and I told her where all of those documents were in her desk the next morning and that Secretary Moriarty had said she wanted them held and Nadine knew they were there the next morning.

GAW: What time of day was that when you told her?

CAMPBELL: We always got there between quarter of 8 and 8 and I'm sure I probably told her by 8:30 that morning, first thing.

GAW: So any chance that she might have entered the information on the computer from Tim's file before you told her to hold it?

CAMPBELL: If she did, she did not say anything to me about it. But I don't know why she would do it, but maybe she did. I don't know. But she never said to me, when I said to her, this is where Tim's paper work, I even had to show her where it was, she never said to me that she had put anything in the computer regarding Tim Moriarty.

GAW: Well, she's intimating

that some information that was placed on the computer was deleted. Now do you know anything about that?

CAMPBELL: No, absolutely not.

GAW: Did you ever hear her say anything about deleting anything in regard to Tim's filing off of the computer?

CAMPBELL: No.

GAW: Did you ever hear anybody else say anything about that?

CAMPBELL: No.

GAW: While you were working there?

CAMPBELL: No.

GAW: Is it possible that she could have entered that prior to you talking to her?

CAMPBELL: Of course, anything is possible. Did I know that she had done that, no. Is it possible? Sure, I guess it is possible.

GAW: What was her reaction when you told her that Tim's paper work was in the drawer but it was on hold?

CAMPBELL: Her reaction was, that's fine. She understood that that was what Ms. Moriarty wanted. As I said the few days between the 21st and the 29th there were two maybe three occasions when she reminded me that the paper work was still there.

GAW: Did you tell her that Tim's filing was on hold at Judi Moriarty's instruction?

CAMPBELL: Yes.

GAW: If Tim Moriarty had told you to hold that paper work and Judi Moriarty had not, would you have held it?

CAMPBELL: I'm sorry, Representative Gaw, if Tim had told me that evening on the 21st what he wanted to do, would I have done it?

GAW: Right.

CAMPBELL: I would have checked with his mother.

GAW: But that's not what your testimony is in regard to what had occurred, is that right?

CAMPBELL: No, sir, no.

GAW: Juli Rodenburg, you think she was there on the 21st when Tim was in the office?

CAMPBELL: I think she might have been in the office, yes, sir.

GAW: My recollection is that she testified that she was there.

CAMPBELL: Okay.

GAW: Anything else happen in regard to that filing between the 21st and the 29th of March?

CAMPBELL: Other than what I have said, as far as I knew, Representative Gaw, that paper work stayed in that desk, no one took it out, as far as I know, no one put anything into a computer and that it just waited there, it stayed in that drawer until the 29th. Again, that was my understanding from what I heard from Nadine Barrows. Because as I said she asked me two or three times and on the 29th we had a discussion about whether Tim was coming in or

not that the paper work was still there. So as far as I know that's where that paper work stayed.

GAW: You never saw it out of the drawer before the 29th?

CAMPBELL: No, sir.

GAW: Yourself?

CAMPBELL: That's correct.

GAW: Now on the 29th you say that Nadine entered the information on the computer, is that correct?

CAMPBELL: Yes, sir.

GAW: Why did she do it and not you?

CAMPBELL: She was sitting at her desk when, again, I had told her that morning after Secretary Moriarty told me what she wanted and that she wanted her son filed and that he wasn't going to be there, I told Nadine that and it got quiet in the office a little after 1:00. There really wasn't very many people there. There were no candidates there. And there were very few staff members, most of them had gone out to lunch. Nadine and I were there, again it was just the circumstance, Nadine was sitting at her desk and that was the computer it was entered into. She had the paper work on her desk, I walked over and timed the work sheet in. So why did she do it and I didn't, I guess it was the circumstance of Nadine sitting at the computer.

GAW: The next time you heard anything about this was when you were called in to the Secretary of State's Office.

CAMPBELL: That's correct.

GAW: And that was sometime you believe in early May?

CAMPBELL: Yes, sir.

GAW: Did you understand there to be a problem in regard to her obtaining a signature to sign Tim's name to an Ethics report?

CAMPBELL: That's correct, that's why, it was my understanding that she had that declaration sheet faxed over to the Capitol office by Elections because she wanted to copy, she wanted to have Tim Moriarty's signature available so she could copy it onto an Ethics Report.

GAW: What was your reaction to that? Wanting a signature to copy on an ethics report?

CAMPBELL: My reaction to it? I guess my reaction was it didn't really surprise me.

GAW: Didn't surprise you?

CAMPBELL: No.

GAW: Why not?

CAMPBELL: Because of what I had seen and what I knew and how I knew things were done in that office.

GAW: In regard to Tim or in regard to other things also?

CAMPBELL: It goes beyond the Tim Moriarty filing, in regard to other things.

GAW: Now as far as, so she wanted to see a copy of that signature, you say that Mr. Kolb was in the office. Now this is a point of some conflicting testimony, too. Mr. Kolb says that he doesn't know anything about this, at that date, about this signature being missing,

although my recollection from yesterday is that he testified that he does recall being in the office with you and Judi when there is some discussion of an ethics signature.

CAMPBELL: It was all the same time and the same conversation. It all had to do with that declaration sheet being filed, I'm sorry being faxed, over from Elections. He was there throughout the entire conversation. That was all part and parcel of the whole situation.

GAW: Was there ever any other time when you were in the office with Mr. Kolb and Ms. Moriarty talking about an Ethics signature being needed for Tim's ethics filing?

CAMPBELL: No, sir, never.

GAW: That was the only time?

CAMPBELL: Yes, sir.

GAW: So your testimony is that all of that occurred on this one occasion?

CAMPBELL: Yes, sir.

GAW: And how long did that conversation last when you were in the office the first time?

CAMPBELL: When I was in the office and I was told to go to Elections?

GAW: Yes.

CAMPBELL: Five minutes.

GAW: Anybody else in there?

CAMPBELL: No, because as I said, when I went back there I was told to close the door and it was just the three of us.

GAW: I'm going to apologize because I'm going to back up just because it just entered my mind and I want to ask the question before it leaves me. On the 21st, Juli Rodenburg testified yesterday that she recalls some conversation between you and someone else immediately after Tim left or did his work sheet, but she doesn't remember who it was, but it was a private conversation and she felt like she wasn't supposed to be involved in it. Did you have any conversation with anyone in the Secretary of State's Office, including maybe the Secretary of State, immediately after Tim had filled out his work sheet and left?

EDWARDS: Is this on the 21st of March

GAW: On the 21st of March, yes, I want to make, yes, that you recall?

CAMPBELL: No, again, if she had some person that she thought I was talking to and I don't even know the context of the conversation she claims to have heard

GAW: We don't know what the conversation was, just that she took it to be a private conversation, immediately after Tim had left.

CAMPBELL: I don't know who in the world it would be or who it would be about .

GAW: When did you contact the Secretary of State in regard to, did you talk to the Secretary of State after Tim had left, in regard to his filing?

CAMPBELL: Well Tim finished up the paper work and walked back to his mother's office, and

so he didn't leave immediately after he filled the paper work out and they were back there and at some point that evening, and they stayed awhile, at some point that evening, Judi Moriarty thanked me for helping Tim fill out his paper work and I said, "Yes, its taken care of," and she thanked me and that was the extent of any other conversation regarding Tim filling out his paper work. Now Judi Moriarty, Tim Moriarty, and Marie Gladbach all left at the same time that evening, so I don't know what in the world that conversation if Juli

GAW: You can't offer an explanation to me?

CAMPBELL: No.

GAW: In regard to you went over, I'm going to go back again to where we were. You went over then in May and saw Gene Wiseman, did he have the paper work out already?

CAMPBELL: No, sir.

GAW: He had to go get it

CAMPBELL: When we went back into the storage room, he had to pull it out of the file boxes. It was not out, it was not laying out. He physically reached into a file box and pulled

GAW: Where was that located? The storage room?

CAMPBELL: It's directly across the hall from Joe Carroll's office, there in the Elections Division.

GAW: Was it locked?

CAMPBELL: No, sir, the door was wide open.

GAW: Describe how those files looked, to me, file cabinets?

CAMPBELL: They weren't cabinets, they were these cardboard file boxes. You buy them at any office supply store and there were a number of them on this, I believe it was a folding table, there were no covers on them . . .

GAW: Were the names of the candidates on the outside of the folders, or do you recall?

CAMPBELL: I believe, Representative Gaw, that they were filed by the district number, I think and so, no there was not a file. Mr. Wiseman did not pull a file out that said Tim Moriarty, it didn't say district 56, it was just the declaration of candidacy form that he filled out and put in front of me.

GAW: How did he find it? Was it under a file that said the 56th District or . . . ?

CAMPBELL: My recollection is that, yes, again they were filed, the files were set up on the 56th District, again I think and he just went to that file. He did it very quickly. Now it wasn't there but he went very quickly to . . .

GAW: Did you go in the storage room with him?

CAMPBELL: Yes.

GAW: Where did you sign it?

CAMPBELL: The boxes are sitting here on the table and he pulled it out and placed it on the little part of the table that was right in front of the box, and I just signed it right there on the table.

GAW: Then what happened

with it?

CAMPBELL: I don't know because then at that point I left, I don't know . . .

GAW: Did you leave before Gene?

CAMPBELL: Oh, yes, sir.

GAW: He stayed in the room?

CAMPBELL: Yes, sir.

GAW: And you came back to the Capitol?

CAMPBELL: Yes, sir.

GAW: And you went back to the Secretary of State's Office?

CAMPBELL: Yes, sir.

GAW: And you went in again and Mr. Kolb was still there?

CAMPBELL: Yes, sir.

GAW: And what was the conversation again?

CAMPBELL: I just didn't really even enter the office. I opened the door, put my head into the office essentially and said that I had signed the form that it was taken care of and Mrs. Moriarty thanked me for it. That was the extent of the conversation.

GAW: You have no information about when Tim signed that form, except that it was after you?

CAMPBELL: That's right. When I signed that declaration form, his signature, there were no signatures on the form, so I have no idea when Mr. Moriarty signed that declaration form.

GAW: You didn't call him, you

didn't call Tim and tell him to come and sign it?

CAMPBELL: No, sir.

GAW: Were you aware of anyone who called Tim?

CAMPBELL: No, sir, I have no personal knowledge who called Tim Moriarty.

GAW: You heard?

CAMPBELL: No, I didn't hear anything.

GAW: No, I'm just asking you, you said you have no personal knowledge. I'm asking you if you've heard something about who called him?

CAMPBELL: I again since this came up, sure I've heard all kinds of versions of what happened. At the time, again I have no idea, if he even was called.

GAW: Did you hear anything from someone that worked in the Capitol Office in the Secretary of State's Office upstairs about how that Tim's signature came to be on that declaration?

CAMPBELL: No, sir.

GAW: All right, That's all I have.

WITT: Further questions. Proceed.

SHELTON: In your testimony before the Grand Jury we are talking about the signature on the declaration for the filing of Tim. You said that it was just understood that neither one of us was going to sign it, the declaration. Do you remember making that statement?

CAMPBELL: Yes, sir.

SHELTON: And then later, when Mrs. Moriarty asked you about the filing, you told her it was taken care of?

CAMPBELL: I'm sorry, Representative Shelton, you mean later that afternoon when she asked about it?

SHELTON: No, the Grand Jury testimony.

CAMPBELL: Yes, sir, but at what point? I told Mrs. Moriarty later that afternoon that, yes it was taken care. She asked me if he had been filed.

SHELTON: You know if she asked you if it was taken care of and you told her yes, wouldn't it be her assumption that everything was okay?

CAMPBELL: I don't know, Representative Shelton.

SHELTON: Well, what did you mean by when you told her it was taken care of?

CAMPBELL: I meant that I did what she had told me to do, that he was filed as I knew him to be filed.

SHELTON: You can't be filed unless the document is complete.

CAMPBELL: I guess I didn't at the time know that, sir.

SHELTON: You had to have known it because earlier you stated that it was understood that neither one of us was going to sign the declaration.

CAMPBELL: No, no, no, I know that Representative Shelton is talking about the fact that neither Nadine or I placed our

signature on that form.

SHELTON: Right, and you stated it was understood that you nor Nadine was going to sign that form.

CAMPBELL: Yes, and I think . . .

SHELTON: And then Ms. Moriarty asked you about her son's filing you said it was taken care of. How could it be taken care of? You knew the signatures weren't there?

CAMPBELL: That's true.

SHELTON: And you led her to believe, by you saying that it was taken care of, you led her to believe that everything was complete.

CAMPBELL: Well, sir, she knew that her son was not present. She knew there was no signature on that form, so when I said it was taken care of, she had the knowledge that Tim Moriarty was not there, to sign anything. She knew that.

SHELTON: She may have known that but when she asked you specifically about it you told her it was taken care of. So what did you mean by it was taken care of, just tell me what did you mean by that?

CAMPBELL: I meant I took care of what she had asked me to do. The form had been timed in, it had been entered into the computer, as far as I knew he was filed as a candidate, so when I said to the Secretary of State, who is the Chief Elections Officer for the State of Missouri, that it was taken care of, I meant that what I could do for her son's filing was taken care of.

SHELTON: But at some point in your conversation with her didn't she say to you specifically that Tim was not coming down on the 29th, but he was going to be filed?

CAMPBELL: She told me that, sir, on the 29th. Yes, sir.

SHELTON: Well, I mean, does that make any sense? How can he get filed if he is not coming down here?

CAMPBELL: As the Secretary of State and again, the Chief Elections Official, she said that he wasn't coming to Jefferson City but he was going to file for office that day and I was to do that and . . .

SHELTON: And if he was not coming down here in order to complete the process, some signatures were going to have to be on that form, correct? Like she ordered you over to the Elections Division to sign your name on that form, you can assume that she wanted you to sign this form, put your name on it.

CAMPBELL: I guess I can assume that, but I'm sorry, Representative Shelton, maybe I'm not answering your question, I'm sorry.

SHELTON: What I'm really trying to find out, is did you lead her to believe that his filing was complete when you said everything is taken care of?

CAMPBELL: Representative Shelton, all I can tell you is that when I said that it was taken care of I meant that, that what she had asked me to do and she knew that it was going to be there, I did everything I could without the candidate present,

that I could do for her. Is that helpful to you? I don't think I led her to believe anything. She knew he wasn't there. I didn't lead her to believe that Tim Moriarty was present.

SHELTON: But, as an election official working in that office, I'm quite sure you know when a declaration is completed.

CAMPBELL: I'm sorry, Representative Shelton, I am not an elections official. I never have been, I never will be. I'm not. I was a person who was trained, sir, to run a computer and to be nice to candidates that came into file and I'm sorry if people believe that or if people have been led to believe that . . .

SHELTON: Okay, when you were working upstairs when the candidates (End of tape #2) were coming in, when I came into fill out my declaration, you didn't know that in order for this process to be completed there had to be signatures on it, the declarations. I mean, why did you think we were coming through there?

CAMPBELL: Sir, it was my understanding, that if there were any discrepancies or problems on any of the filings . . .

SHELTON: Let me ask you this question.

CAMPBELL: Sure.

SHELTON: Say you asked Nadine Barrows to go down to the Information Center to pick up a document. She came back and she said, "Barb, I have taken care of it." Wouldn't you have assumed that she had completed the task that you had

asked her to perform? Would you make that assumption?

CAMPBELL: I would assume, sir, but I don't know how Secretary Moriarty could have assumed that there was a signature on her son's declaration form, when she knew he wasn't there.

SHELTON: But she told you he wasn't coming.

CAMPBELL: That's right.

SHELTON: Because Tim's was not coming today.

CAMPBELL: But she wanted . . .

SHELTON: But he's going to file.

CAMPBELL: Yes, sir. I did the most I could for her without him being present. I couldn't get him to sign a form when he wasn't there.

SHELTON: That's all. Thanks.

WITT: Representative Richardson.

RICHARDSON: Ms. Campbell, you took the money from him on the 21st and it was cash. Right?

CAMPBELL: Yes, sir.

RICHARDSON: Do you know what happened to that cash later, or what point it was turned over to the party, or if it was ever turned over to the party?

CAMPBELL: I don't know, sir. The last I saw of it was on the 21st.

RICHARDSON: When you all were working with the paper

work on the 29th, and I think you said you did the clock stamp and Nadine did the typing.

CAMPBELL: Yes, sir.

RICHARDSON: Was the money there then?

CAMPBELL: I don't recall seeing it. I don't know if it was there or not.

RICHARDSON: You don't have any personal knowledge or recall at all one way or the other when that money was actually turned over to the, presumably, to the Democratic party.

CAMPBELL: No, sir.

RICHARDSON: Thank you.

WITT: Further question? I just have one last question.

CAMPBELL: Yes, sir.

WITT: Is there any doubt in your mind that Secretary of State Moriarty ordered you to add your signature to Tim's filing sometime in May.

CAMPBELL: No, sir. There is no doubt.

WITT: That's all I have. Thank you very much for coming down and appearing before us again today. I know it's been a very traumatic experience throughout all of this for you.

CAMPBELL: Thank you.

WITT: Mr. Berkowitz, does the Secretary of State intend to appear before us today?

STUART BERKOWITZ: Mr. Witt, my recollection is that you extended a courtesy for her to make a statement if she wished

to, and I accepted that, but I intend

SHELTON: Excuse me. I didn't hear what he said.

BERKOWITZ: I'm sorry, Representative Shelton. My recollection of the close of the hearings last night was that Chairman Witt extended an invitation to Secretary Moriarty to make a statement if she wished to do so. And I accepted that invitation and that is why I am here.

WITT: Okay. I know that there are committee members, including myself, that have additional questions that we would like to ask of the Secretary of State. Is she here today in the building?

BERKOWITZ: I wasn't told that she would be giving testimony.

WITT: No, that's not what I asked you. Is she here in the building?

BERKOWITZ: I do not know.

WITT: Okay. If she is available, would she agree to come before the committee and answer some additional questions?

BERKOWITZ: I don't know.

WITT: If we take a thirty minute recess to give you time to go and attempt to locate her, will you report back to us in thirty minutes about whether or not, I have some additional questions that I would like to ask and I know there are other committee members that has additional questions they would like to ask. Would you attempt to contact your client and ask her if you would agree to appear before us voluntarily?

BERKOWITZ: I want to tell you before you take your thirty minute recess, that I'm going to advise her not to appear before the committee.

WITT: Okay.

BERKOWITZ: And I anticipate that she would take my advice.

WITT: But if we request, and I would like you to relay to her we are requesting, that she voluntarily appear before this committee because we do have some additional questions. We have some additional things that we would like her to answer now that we have heard additional testimony maybe see if she can clear up some questions in our minds. I would like her to come down and appear before the committee to ask additional questions. I think that is the consensus of the other committee members.

SHELTON: Let me ask you this, was she subpoenaed the first time?

WITT: I believe a subpoena was served upon her and when she was released the first time we asked her if she would make herself available, if we had additional questions and at that time she said that she would. She was not released from the subpoena.

SHELTON: That's all I'm asking is was she released from the subpoena?

WITT: I do not believe that she has been released from the subpoena.

BERKOWITZ: I disagree. We were invited to give a statement last night. I have not offered her that additional testimony.

(inaudible) time to advise her (inaudible). I'm disturbed about some of things that have happened here and in my view she is not going to be prepared to come before the committee until a number of matters are cleared up.

WITT: I will ask you to please relay the committee's

BERKOWITZ: I will do that.

WITT: strong feeling that she come and appear before us again, because we do have additional questions that maybe she can clear up and issues that have come up that we would like to discuss with her and at this point we will take a 30 minute recess. If you would come back in 30 minutes, well it's 5 minutes until 11:00. If you can come back at 12:00, 11:30 I mean, 11:30.

• RECESS •

WITT: representing Judi Moriarty, but indicates in the letter that he is not being retained to represent her for the purpose of the impeachment hearings. It has been asked that this be distributed. Representative Richardson asked that it be distributed. For what it's worth, it is not under oath and appears to be argument, rather than factual, but for what it's worth I will distribute it to the members of the committee.

The doorman has located Mr. Berkowitz in the Secretary of State's Office. They have indicated that they will be down shortly. We will stand in recess

for approximately ten minutes to see if they are going to get here.

• RECESS •

WITT: I want to bring the committee back to order. Mr. Berkowitz, you've had an opportunity to confer with your client. The question is now, is the Secretary of State willing to answer some additional questions in front of the committee?

BERKOWITZ: I apologize for the delay in coming back. I did not have the advantage of the full half hour because Mrs. Moriarty had not arrived at the Capitol at that point. Only arrived about 10 or 15 minutes ago so we did need that additional time to discuss it with her. I have advised Mrs. Moriarty that no useful purpose would be served at this point in providing additional testimony until certain matters are cleared up. However, Mrs. Moriarty has always maintained that she has done absolutely nothing wrong, she has given statements to investigators, she has testified before a Grand Jury, she has testified in court, she has also testified previously before this committee, and she believes that she has nothing to hide, that she is available to answer any and all questions that this committee wishes to pose to her, so despite my advice, she is here to answer whatever further questions members of this committee might have.

WITT: Secretary of State Moriarty, you do realize that you are still under oath?

JUDITH MORIARTY: Yes, I do.

WITT: I guess my first question has to be, why is Nadine Barrows still employed by the Secretary of State's Office after taking the Fifth Amendment in front of the committee regarding actions dealing with the destruction of documents or deleting information from the computer in the Secretary of State's Office?

MORIARTY: That information that you know only came to my attention and my knowledge, the night or midnight whenever I was down here to testify, and I did not discuss it with her during this week you were in recess, and I had hoped that she would come forward with full disclosure of that.

WITT: But you are aware that she has now taken the Fifth Amendment, refused to answer questions in front of this committee.

MORIARTY: I am aware of this week that she did take the Fifth Amendment.

WITT: When you were here last time, you and I had some discussion about why it was that you requested a copy of Tim's papers from the Information Office, a copy of his declaration of candidacy and why it was that the work sheet that was originally faxed over to you was not sufficient. And you reported to me repeatedly throughout that, that there was information on there you didn't have, like the date of the election. We have had testimony from Juli Rodenburg, who was clear to us that it was her position that when you called her into the office that you wanted a copy of that for Tim's signature, so that

you could put his signature onto a document to be filed with the Ethics committee, is that correct?

MORIARTY: I was in the process of getting information for a financial disclosure that he needed done.

WITT: It was an exemption, is that correct?

MORIARTY: That's correct.

WITT: And was your reasoning that you wanted his actual declaration of candidacy because you wanted to see his signature?

MORIARTY: I wanted that information that was contained on that declaration.

WITT: And the thing, the only real thing that was on the declaration of candidacy that was not on the work sheet, which you had previous, that you made them go back and get the declaration was the signature or supposedly was going to be the signature of Tim Moriarty, is that correct?

MORIARTY: Well, at the time that I asked for that declaration to be sent over they sent the work sheet. I was not familiar with the work sheet that they even used, that was the first I had ever seen one of those. They were having those filled out. I wanted the declaration of candidacy.

WITT: And you wanted that because you wanted to copy Tim's signature from that document onto the ethics report. Is that correct?

MORIARTY: I did not say that. I said I wanted the information that was on that.

WITT: Did you put Tim's signature at the bottom of that document?

MORIARTY: I filled out the that campaign finance form and signed his name, yes, I did. And that is not illegal; it is not an illegal procedure.

WITT: Well, that's a legal conclusion, but . . .

MORIARTY: Well, I asked the attorney at the Ethics commission. That is an authorized signature and I was authorized to do that for him.

WITT: Did you indicate any where on that form that it was you signing his name by putting Tim Moriarty by J.M. by Judi Moriarty, any indication that it was not Tim Moriarty that had signed that document?

MORIARTY: No, I have my campaign finance disclosures have been filled out by other people for years, I have given . . .

WITT: And people signed your name to them?

MORIARTY: Yes, they do, I authorized my signature.

WITT: Did you sign any other documents that were filed with the Ethics Commission on behalf of Tim Moriarty?

MORIARTY: No.

WITT: Did you sign any other documents on behalf of Tim Moriarty that were filed with the State of Missouri?

MORIARTY: No.

WITT: It is your testimony that you received a copy of that

declaration of candidacy that day and noticed that the signatures were not on it and then you contacted Randy Sparks, is that correct?

MORIARTY: No, the first person I contact was someone in Elections. I think it was Gene.

WITT: Okay, you contacted Gene Wiseman.

MORIARTY: My comment to him, well, I first contacted Barbara Campbell with the paper work.

WITT: Okay, but you contacted who in Elections, was it Gene Wiseman that you contacted?

MORIARTY: And asked her what had happened, and then I contacted Elections.

WITT: Was it Gene Wiseman in Elections that you contacted?

MORIARTY: I believe that it was.

WITT: So Gene Wiseman would be lying if he told us in front of this committee that you did not contact him and that he had no discussions with you about this, that it came, that the contact actually came from Joe Carroll to him?

MORIARTY: Well, I contacted Elections. When I went back in the office and I asked them pointedly, is Tim's filing legal?

WITT: Okay, but who did you contact?

MORIARTY: Well, I believe it was Gene.

WITT: So if Gene Wiseman told us that you did not contact him, he would be lying to this

committee?

MORIARTY: I don't know what Gene told this committee. All I know, I will tell this committee this much . . .

WITT: No, I want you to answer the question.

BERKOWITZ: She has answered the question, Mr. Chairman. She is not going to characterize someone else's testimony for you.

WITT: Well, okay, did you contact Joe Carroll in Elections?

MORIARTY: At some point, I believe that I discussed this with him, yes.

WITT: Was that before or after the signatures were obtained on the document?

MORIARTY: I think, I don't know, before, I thought.

WITT: Okay. If Joe Carroll told this committee that he had not discussed it with you, before those signatures were obtained, he would be lying to us is that correct?

MORIARTY: Same answer applies.

WITT: Okay, did you contact Randy Sparks before the signatures were obtained on the document about that?

MORIARTY: Well, I believe that I discussed it with Randy at some point, yes, I do.

WITT: So he told us that he never gave you that advice and tried to keep you out of it, tried to keep the advice just to Joe Carroll and Gene Wiseman and not to even contact you about it

or let you know that this document was invalid in some point

MORIARTY: Well, at the time that this became an issue, you hear a lot of people saying different things about the situation and I've tried to think back who I did talk to. I mean there has been a lot of conversation about it since June, but I believe that I did discuss it with him.

WITT: Okay. Did you contact Tim Moriarty and tell him to come and sign that declaration after you found out the signatures were not on it?

MORIARTY: No, I discussed with Tim my findings, but he says he had a phone call from someone.

WITT: But you did contact him to tell him that the signatures were not on the document?

MORIARTY: I discussed with him that they were omitted, yes, when I discovered that.

WITT: When was that?

MORIARTY: I don't know.

WITT: Was it the same day you discovered it?

MORIARTY: I don't know.

WITT: Was it the next day?

MORIARTY: I have no idea when.

WITT: So it could have been a week later, it could have been a month later, it could have been after the signatures were obtained? Give me some time frame, if you can at all.

MORIARTY: I don't know, it might have been within a day or two.

WITT: So you did contact Tim Moriarty sometime?

MORIARTY: Well, we talk regularly.

WITT: Okay, and you told him his signature was missing from that document?

MORIARTY: Yes.

WITT: Do you know who called Tim Moriarty?

MORIARTY: I don't know, maybe Barbara Campbell.

WITT: No, Tim Moriarty testified it was definitely a man's voice on his answering machine.

MORIARTY: I don't know.

WITT: Are there other questions from members of the committee? Representative Wible.

WIBLE: Thank you. You indicated that you had authorization to sign Tim's name to the

MORIARTY: Campaign Finance form?

WIBLE: Yes. When did you get that authorization?

MORIARTY: When he asked me to do it.

WIBLE: Okay, so you are saying that Tim gave you the authorization to do that?

MORIARTY: That's correct.

WIBLE: And I believe you said that you talked to someone at the Ethics Commission. Did I

not hear you say that just a couple of moments ago?

MORIARTY: That's right.

WIBLE: Who did you talk to at the Ethics Commission?

MORIARTY: The attorney was contacted.

BERKOWITZ: If I might help, Representative Wible; I have talked to the Ethics Commission and they have told me they don't care whose signature is on those forms.

WIBLE: If that's the case, why would you find it necessary to copy the signature so that it was a duplicate?

MORIARTY: I did not copy his signature.

WIBLE: I'm sorry, I thought that you had got the document so that you could see what the signature looked like.

MORIARTY: Well, that is what was said. I said that I wanted a copy of the document that he had signed, sent over, his declaration of candidacy. I wanted the information that was on it.

WIBLE: Which was also on the work sheet that you had prior to getting the declaration.

MORIARTY: Most of it was on the work sheet, but that wasn't what I was looking for. When I asked her to have something faxed over, I asked for his declaration of candidacy. The work sheet, that's the first time I ever saw one of those work sheets they were filling out there. It was unfamiliar as to what I was looking for. I never used work sheets when I filed

people. I guess they do that now because of the computer filing.

WIBLE: When you looked at the work sheet, when it was sent to you first, did you look at it to see if it had the information you wanted?

MORIARTY: No, I just told her that wasn't what I wanted, that there was something else that should be over there.

WIBLE: When you signed the document, did you copy Tim's signature?

MORIARTY: No.

WIBLE: Did you sign it as you would normally write Tim's name?

MORIARTY: I signed it.

WIBLE: And you wrote Tim's name, you did not write your name?

MORIARTY: Right.

WITT: Or by you?

MORIARTY: Right.

WIBLE: There has been testimony from you, I believe, as well as from some others about a raise that Barbara Campbell was given, which was effective June 1 of '94. At the time that raise was given to her, and correct me if I'm wrong, but I believe that was after you discovered that she had seriously botched your son's filing?

MORIARTY: That raise had been discussed since maybe in March or February. There are memorandums that they had written through the months as to what she wanted to do in

order to have a different title with more responsibilities. And my serious concern were her extreme large number of comp hours she was accumulating. So when Jim Kolb discussed it with me, we decided on a figure that would equal what that amount would equate to in a year's time.

WIBLE: When did the discussion between you and Jim take place?

MORIARTY: I don't know, maybe in June. I don't know.

WIBLE: But you didn't have a problem with giving her a raise in spite of what, I would think, you would consider a dereliction of duty?

MORIARTY: Well, at that time it was considered an internal clerical error that she took responsibility for and no one had ever made an issue of it. No one thought about it. It was inconsequential to most people. I think that's why there has been problems going back trying to remember all the details.

WIBLE: So you didn't consider the lack of signatures to be a serious problem?

MORIARTY: Well, I certainly do now.

WIBLE: But you didn't consider that . . .

MORIARTY: I left that up to the Elections, to the attorney and I abided by what they told me. My questions to them, "Is his filing legal?" I have nothing to gain then and especially not now for him to be a candidate. He had to run and win fair and square on his own, if he was going to be a candidate. My putting him in a position to run

for office is ridiculous. To try to do something illegal about putting him in an advantage to run for an office.

WIBLE: Did you have questions about how Barbara was conducting her job after you found out, as you have stated, that a form was filled out and your son was there on the 21st, signed the document, and yet some time later the document in the file was totally unsigned, did that cause you to question . . . ?

MORIARTY: Barbara was a very take charge person.

WIBLE: Let me finish the question, please, did that cause you to question Barbara's competency with her job or the way she was performing her job?

MORIARTY: Not at that time. You would have to realize how she worked in the office and very take charge. Never wanted to be in a mistake or an error, so this was something she took over and I'm sure tried to correct immediately when she found out about it and it was never discussed.

WIBLE: And you didn't have any concerns about whether that might have been the only form that was that way or whether there were several. Did you look and see whether that had been done at other times?

MORIARTY: That was Elections' responsibility. I had never looked at any of those filings and until, they were confiscated actually, now I feel like by the Prosecutor's Office, where our Elections Division and my attorney had no opportunity to go through those.

WIBLE: Was Barbara an

employee of the Elections Division?

MORIARTY: No.

WIBLE: Who was Barbara's supervisor?

MORIARTY: Barbara's supervisor would have been Jim Kolb immediately before me.

WIBLE: Did Jim Kolb look into how Barbara was performing her job following this discovery?

MORIARTY: It was considered a clerical error, which happens frequently.

WIBLE: So it was not considered an important part of the job?

MORIARTY: At that time it was considered a clerical error on her part.

WIBLE: And it was no big deal to you at that time. All right. The management review team produced a report and on page 3 of that report it was recommended that an advisory personnel and practices board be established. Has that been done?

MORIARTY: I have a management specialist that I have brought on board and he and another employee, another administrative assistant, have visited with Mr. Capps about that board and we are taking that under advisement as to how that board will be named and the type of board that will be put into position.

WIBLE: So you have a new full time employee that is determining whether and how to set up that board?

MORIARTY: I have a management specialist that I brought in to help us implement the recommendations of the review team.

WIBLE: Is that a permanent employee?

MORIARTY: No.

WIBLE: Who is that?

MORIARTY: His name is Bill Kindle.

WIBLE: And how do you know him?

MORIARTY: I know him through recommendation and resume that he submitted to the office. He had helped reorganize a governor's office in Kentucky at one time.

WIBLE: Had you known him prior to this?

MORIARTY: No.

WIBLE: How did he know to apply for that, were you advertising a position open or . . . ?

MORIARTY: No.

WIBLE: How did he happen to submit his resume?

MORIARTY: Through a request that I made from an attorney at Thompson Mitchell.

WIBLE: Request for what?

MORIARTY: I was looking for someone that could be considered an expert in the management field to help us implement some of these recommendations.

WIBLE: Mr. Chairman, would,

I may be getting a little broad with the scope here. There are some questions that I have in relation to this but I will at the committee's or Chair's request, I will certainly not go into that at this time.

WITT: Okay. If you could try and limit your questions to things that are relevant to filing of Tim Moriarty

WIBLE: I think that's all the questions that I have.

WITT: Representative Shelton.

SHELTON: Thank you, Mr. Chairman. Ms. Moriarty do you plan to continue the employment of Nadine Barrows at this point?

MORIARTY: Well, that is something that I'm going to have to take into serious consideration.

SHELTON: Can you explain to this panel why none of your employees at the Elections Division remembering Tim coming in on the 29th to sign his name on the declaration of candidacy?

MORIARTY: There is a lady that testified in court that she did see Tim the day he came into sign and visited with him in the hall outside Elections. But as far as the employees' memory lapse, all I can tell you is that everyone of my employees is sick of this whole matter, they don't want to hear anything about this matter ever brought up again in their lives, I'm sure. They have been asked questions from investigators from the Attorney General's Office more than one time . . .

SHELTON: Let me ask you this question.

MORIARTY: May I finish this please?

SHELTON: You are not answering my question.

MORIARTY: Yes, I am.

SHELTON: I don't want to know about their feelings, because I'm quite sure there are some people in this Legislature who are as sick about it as your employees are. But your son came to one of your offices to sign a document and none of those employees who appeared before us testified that they saw him. Can you explain that?

MORIARTY: I am

SHELTON: I don't care about what they feel or how they think.

MORIARTY: This is what no one wants to be charged with anything because

SHELTON: Can you explain why none of those employees saw your son come into fill out a declaration of candidacy?

MORIARTY: No, all I'm telling you is that I just know from what I have seen that they have been asked questions and investigated from all sorts of sources and they don't want, no one wants another charge out of this. They are afraid of being charged with a crime.

SHELTON: You ran the clerk's office in Pettis County, isn't that right?

MORIARTY: Pardon me?

SHELTON: You were county clerk in Pettis County?

MORIARTY: Yes, sir.

SHELTON: And I'm quite sure that you know the difference between a clerical error and missing signatures on official documents. There is a distinct difference between missing signatures and clerical errors. You had an attorney advising you that this was a clerical error.

MORIARTY: Yes, sir.

SHELTON: And you accepted that.

MORIARTY: Yes, sir.

SHELTON: As the Secretary of the State of Missouri.

MORIARTY: Yes, sir.

SHELTON: Who is in charge of your Capitol Office when you're not in town?

MORIARTY: Carolyn Smith.

SHELTON: And what is her job description? What does she do? What is her title?

MORIARTY: She is my legislative director.

SHELTON: Do you believe that you have a lawyer and a competent staff working for you?

MORIARTY: At this point, I don't know. I have some good employees that have been put through a lot.

SHELTON: Well, I can tell you none that has come before this committee or very few have given you very much support and

MORIARTY: No one wants to be charged with another crime. They are all afraid.

SHELTON: They are all afraid?

Did any of them commit a crime?

MORIARTY: I don't believe that anyone committed a crime, but there have been numerous crimes charged out of this one incident.

SHELTON: Why would they be afraid, if they didn't commit a crime?

MORIARTY: Well, why wouldn't they? Look what has happened to me and my life and other people's lives over this one incident and the advice we were given. And I carry with me today this constitution. We had a bill brought down from some people in the Governor's Office that was past the 45 day period and we asked the attorney, a staff member did, do we accept it? Yes, we accept it. So where do we stop taking the attorney's advice?

SHELTON: When he starts giving you bad advice.

MORIARTY: Well, that's something that everyone is subject to.

SHELTON: You think it was appropriate for you to hire a husband and wife team to work in the same office?

MORIARTY: I would never do it again, but it is certainly not illegal.

SHELTON: Did you think it was appropriate at that time?

MORIARTY: At that time, she was hired for the Capitol Office and he was hired to work in the Information Center.

SHELTON: Did you think at that time it was appropriate to hire a husband and wife team?

MORIARTY: At that time I contacted the Attorney General's Office, asked them if there was any illegalities about that, and they said no.

SHELTON: Who gave you budget authority to hire Charles Campbell?

MORIARTY: We had an administrative assistant position. This is a little bit complicated if my memory serves me right.

BERKOWITZ: I would like to ask the Chair, why Representative Shelton . . .

SHELTON: You can ask me. You can ask me.

BERKOWITZ: Well, . . .

SHELTON: You don't have to ask the Chair, he doesn't know what I'm thinking.

BERKOWITZ: I'm going to make an objection to the questions, since Charles Campbell was excluded as a witness.

SHELTON: Well, object to it. I'm asking her a question. She can answer or she doesn't have to answer it.

MORIARTY: All right.

SHELTON: Who gave you budget authority to hire Charles Campbell?

MORIARTY: If my memory serves me right and we could get the paper work on this, but there was something that happened in the budget process in that winter that eliminated my general counsel position. I don't know if any of you remember that. It was temporary. We

were to get that position reinstated by April and I had an Administrative Assistant position that was open and that was from the position that he, Randy Sparks was my General Counsel, he had been hired as an administrative assistant. We moved him on into General Counsel and that administrative assistant position was the one that was supposed to be open. But the General Counsel position had been left out of the budget, so until April, we paid Charles Campbell, I think, for three months out of our excess funds, until that was reinstated.

SHELTON: You didn't ask for that position in your budget request.

MORIARTY: The General Counsel?

SHELTON: No, Charles Campbell's position.

MORIARTY: Well, that was the Administrative Assistant position that was open.

SHELTON: Well, you've been before Budget before and Appropriations of General Administration, you know that's how we not do things here. You get a request from the Budget chairman or the Budget Committee for new employees.

MORIARTY: Well that was my understanding of it, O. L.

SHELTON: Who gave you authority to give Barbara Campbell a pay raise prior to the pay raise that was given everybody else?

MORIARTY: She was reclassified in her position.

SHELTON: And why was she

reclassified?

MORIARTY: Her duties were going to change. She wanted to take on additional authority with her duties.

SHELTON: What were the additional duties that she took on?

MORIARTY: Well, we had, she was going to help develop a letter for the employees that work for the Secretary of State and we had sent her to some training in Kansas City to do that and that was one of the duties. She was going to assist her husband with his press duties.

SHELTON: Isn't it true that there was some discussion between you and Mr. Kolb about the amount of overtime she was working?

MORIARTY: Yes.

SHELTON: And to put her in a different category you wouldn't have to keep up with all that overtime?

MORIARTY: Right, it would exempt her.

SHELTON: Judi, you know we, as I have stated before, we have two documents that have been provided to this committee. One shows the name of Tim Moriarty by his self, the other shows Tim Moriarty and Barbara Campbell's name. The one with Tim's name and Barbara's name was dated the 29th, 1:19 p.m., and I think this committee kind of understands how that document was produced, but there is a mystery about how this document was produced from your office.

MORIARTY: I agree.

SHELTON: Nobody, the three people that worked in the outer office upstairs, the four people in Elections, and the computer person can't explain this document, out of your office. Can you explain it?

MORIARTY: That's a good question. That's the original document, if you are holding up the one you want explained, I believe that is the original document that Tim filled out and signed the day he was in to file, the one that was ultimately destroyed, which should make this case totally thrown out, in my opinion.

SHELTON: That's all that I have, Mr. Chairman. Thanks.

WITT: I have one additional question before you go on. If that is the document that was originally filled out and Tim signed, can you explain why that Tim had that supposedly according to him in his possession from the 21st through the investigation, through his testimony before the Grand Jury, through his withdrawal from office, even though numerous people asked him if he had any documents, and throughout that entire time he said I never signed anything when I was in the Secretary of State's Office that day, why it suddenly appears later in his possession?

MORIARTY: I think the answer is simple. He just forgot that he was given a copy. I think everyone, even Barbara Campbell, forgot she had had him sign and given him a copy of that original document.

WITT: This is obviously one of

the most important documents in your life and his life at this point in time and he forgot and never found it?

MORIARTY: He did find it the night he withdrew from his candidacy. He was going through all of his paper work and he found that folded up in there and that's when he brought it to my attention and to the attorney's attention and they said take it to the Prosecutors Office and the Attorney General. He had just been there the day before, through hours of questioning, and they had already made the determination for him to withdraw. So he takes it back in hoping that they will see that he did have an original document that was signed.

WITT: Okay. Representative Richardson.

RICHARDSON: Thank you, Mr. Chairman.

MORIARTY: And that has to be the document that was ultimately destroyed. "Inaudible"

MORIARTY: Well there was a signed document that was destroyed

RICHARDSON: Secretary Moriarty, we are talking about a statement of exemption or rejection, I believe, that you indicated that you did in fact sign for Tim, is that right?

MORIARTY: That's correct.

RICHARDSON: Mr. Chairman, could we show this to the witness. [Document handed to witness.] That document was completed by you and then subsequently filed by you or

caused to be filed by you with the commission?

MORIARTY: Yes.

RICHARDSON: Now that is just a statement of exemption or rejection of exemption, isn't it?

MORIARTY: That's right.

RICHARDSON: There were previous filings that Tim had made himself, is that right?

MORIARTY: That's correct.

RICHARDSON: Including the personal financial disclosure statement and the original statement of exemption or exception and also the statement of committee organization, is that right?

MORIARTY: That's correct.

RICHARDSON: Those other documents require affirmation, don't they?

MORIARTY: I don't know that they do.

RICHARDSON: On some of the statements you have to certify and on other statements you have to affirm, but on this particular one, it doesn't ask any of that. It just asks for the candidate's signature, is that right?

MORIARTY: Right.

RICHARDSON: It doesn't require a notary.

MORIARTY: No.

RICHARDSON: It doesn't require to be sworn.

MORIARTY: No.

RICHARDSON: And are you saying it's your experience that it is common for candidates to have someone else sign their signature for them?

MORIARTY: Yes, if it is authorized.

RICHARDSON: Was this your understanding at the time you signed this?

MORIARTY: Absolutely.

RICHARDSON: Of course, at one time the filing of these reports was responsibility of the Secretary of State's Office. It is not now, is it?

MORIARTY: It hasn't been since I've been Secretary of State.

RICHARDSON: It was taken out of your department with the passage of the commission law and was gone during, I guess, Secretary Blunt's administration.

MORIARTY: That's correct.

RICHARDSON: So other than your own filings or the filings of people that maybe were county candidates when you were a county official, you don't have any personal knowledge of anybody who has commonly done this or . . . ?

MORIARTY: I know I have had many candidates tell me their forms were filled out and signed by their treasurer. They have authorized them to sign their name.

RICHARDSON: When they have done those and they have filed them either in your county clerk's office in the past or if you have seen them, have they

commonly just signed the candidate's name or have they signed their name with the notation by somebody?

MORIARTY: They have just signed the candidate's name.

RICHARDSON: This was the only document you signed for Tim. The other documents that do require some affirmation or certification, you didn't sign any of those, is that right?

MORIARTY: No.

RICHARDSON: Why was it that it was necessary for you to complete and sign this form for him, but not the others?

MORIARTY: Well, he had received a notice, this was something that caught him off guard, as it did many candidates this past year. There was a new law that went into place, went into effect, where that first quarter report had to be filled out or a fine was accumulated. And he had received a notice that he had a fine accumulating.

RICHARDSON: Was this the document that was not filed that caused that fine to accumulate?

MORIARTY: Yes.

RICHARDSON: Did he in fact pay that fine?

MORIARTY: I'm sure he did. I think they testified to that.

RICHARDSON: We had some testimony, I believe, and some documentation that it was a \$200 fine.

MORIARTY: Yes.

RICHARDSON: So much per day, is that what it is?

MORIARTY: Yes, I think it was \$10 a day or something.

RICHARDSON: And since all this has come up, you have contacted specifically the commission?

MORIARTY: Yes, well prior to that, my own attorney had always said that that was an authorized signature.

RICHARDSON: And that information that you received either directly or through your attorney was from legal counsel in the commission, is that right?

MORIARTY: Yes.

RICHARDSON: Secretary Moriarty, did you know how to operate the elections filing computer system?

MORIARTY: No.

RICHARDSON: Had you had any training on it?

MORIARTY: No.

RICHARDSON: Had you had any training or indoctrination orienting you to the details of filing for office?

MORIARTY: No.

RICHARDSON: When you were a county clerk did you do the filing yourself as a clerk?

MORIARTY: Yes, I did the filing myself. It was all done by hand though and we did not use those work sheets. We just used the declaration of candidacy, the receipt for their money and always made sure they had their forms for their campaign finance reporting.

RICHARDSON: When you

were, how long were you clerk?

MORIARTY: Ten years.

RICHARDSON: So you filed at least four election cycles, I guess.

MORIARTY: More, you have elections every year.

RICHARDSON: Well that's true, but candidate filing, you had a lot of ballot issues and that sort of thing.

MORIARTY: Well there was candidates every year for school board and different

RICHARDSON: And you filed them as well as?

MORIARTY: Right, mayor's races and what have you.

RICHARDSON: And in all of those races whether they be political subdivisions or county wide races or whatever, city races, you used essentially the same form, the declaration of candidacy form?

MORIARTY: Well, it was somewhat different, from what we use, but it was a declaration of candidacy.

RICHARDSON: Did it always seem important to you during those years that the candidate appear and sign that form at the time that they were filing?

MORIARTY: Absolutely.

RICHARDSON: Did you ever have anybody in those years want to file or try to file without being present or without signing their name?

MORIARTY: I don't believe so.

RICHARDSON: So the first

system that you were ever involved in that was a computer system for filing was in the Secretary of State's Office?

MORIARTY: That's correct.

RICHARDSON: And you did not participate in the orientation or the training that was provided by Mr. Hebert or Mr. Wiseman there in your office?

MORIARTY: No.

RICHARDSON: Why did you not?

MORIARTY: That's what I have those employees for, that's their, I'm very busy with a lot of other matters.

RICHARDSON: You didn't feel that it was important for you to know the mechanics of what your employee were doing there?

MORIARTY: No.

RICHARDSON: 'Cause you didn't intend to be filing anybody yourself anyway?

MORIARTY: No.

RICHARDSON: Did you know how to access the computer system?

MORIARTY: No, I do not now.

RICHARDSON: Did you have a computer in your office, in your office?

MORIARTY: No, I do not have a computer in my office.

RICHARDSON: You don't use a computer yourself in the course of your duties.

MORIARTY: No, I do not.

RICHARDSON: Would you consider yourself computer literate?

MORIARTY: No, I would not.

RICHARDSON: Neither would I, as far as myself. Did you have a password to access the computer system that was there in the Capitol Office?

MORIARTY: No, I have no password.

RICHARDSON: Did you know of any of the passwords. Were you aware that it took a password to get in?

MORIARTY: Well, I'm sure it does. I know that on the county level each person had to have a password.

RICHARDSON: Did you know any of the passwords that your various employees had to access the computer?

MORIARTY: No, I never discussed it with them.

RICHARDSON: Did you ever yourself turn on or attempt to turn on the computer?

MORIARTY: I have never used any of the computers outside, in the outside office.

RICHARDSON: Does Tim know how to use a computer?

MORIARTY: He would have to answer that. I think he has had some experience, probably limited where he has worked at different places.

RICHARDSON: One thing that I do want to try to clear up, because it appears to be a discrepancy in your testimony, but perhaps it is not. You were

initially interviewed and you have been interviewed by a lot of people a lot of times and you have given testimony a lot of times, I know that in and of itself can be confusing, but you were interviewed by Richard Lee, from Prosecutor Callahan's Office, were you not?

MORIARTY: Yes, I was.

RICHARDSON: And in the second interview that you gave, which was on June 20th, his notes indicate that you had also said, this is talking about when you discovered the lack of the signature, "Mrs. Moriarty also said that she immediately called Tim and told him to come down and sign after consulting with Mr. Carroll." Did you do that?

MORIARTY: I don't recall saying that. I think what I would have said to him at that time is what I've said now, that I'm sure I discussed it with him that his signature was omitted.

RICHARDSON: Could that be the call that Tim got telling him to come and sign?

MORIARTY: I don't believe so. This was a conversation that we had.

RICHARDSON: That wasn't something you left on his answering machine.

MORIARTY: No, my first reaction was to find out what to do with that, unsigned document. (End of tape #3)

RICHARDSON: There seems to be some discrepancy as to what is in the testimony and I think that it is significant as to when you determined that you should proceed with securing the signatures and what information

and advice you had at the time that you proceeded. And at different points during your various interviews and during testimony there seems to be different twists that are taken that aren't entirely contradictory, but they do seem to conflict to a certain extent. When you first discovered that the signatures were not on there, you believe now or you state today that you believe that it was Gene Wiseman that you contacted?

MORIARTY: I think it was.

RICHARDSON: Could it have been Joe Carroll?

MORIARTY: I don't know. I know I went back in my office and called Elections.

RICHARDSON: And you asked them, whoever it was, Mr. Wiseman says he doesn't think it was him, but whoever you talked to you asked him . . .

MORIARTY: You know I'm trying to think about it, I just think it was him, I think he made some kind of a statement like, "Gee, I don't know how we overlooked this," or something, because they are supposed to check those after they went over there.

RICHARDSON: Did you ask him at that time to check other filings to see if there were other signatures missing?

MORIARTY: No.

RICHARDSON: Did he tell you that he would have to review it with legal counsel and get back to you or did he just give you an immediate response?

MORIARTY: Well, I think he

was going to talk to Joe about it or, you know, they were going to get more advice and my understanding was to talk to the attorney.

RICHARDSON: So you left it with them to get with the attorney and to get you some kind of an answer or some kind of a direction on it?

MORIARTY: I don't know. I think at some point I talked to Randy myself, that was the attorney, but I can't verify that.

RICHARDSON: Did you instruct Barbara Campbell to go over and sign?

MORIARTY: No.

RICHARDSON: Or did you ask her to?

MORIARTY: No.

RICHARDSON: Do you know who did, if anybody?

MORIARTY: In my opinion, she would have called and made arrangements to do it herself, because Barbara never wanted to make a mistake.

RICHARDSON: Had you known that she was going over there to sign it, would you have had a problem with that?

MORIARTY: Well, if she had been told to do it that that was the way to correct it. My problem with the whole thing, you know, in retrospect and now that what's happened is that there was no documentation attached to it as to explaining when she did go.

RICHARDSON: Did you ever ask Gene or Joe or Randy if some special documentation or

some special procedure should be gone through to document?

MORIARTY: I never asked anymore questions about it.

RICHARDSON: You just left it up to them to take care of?

MORIARTY: Right.

RICHARDSON: Do you remember on the evening of the 21st when Tim was in the office? I believe you told us earlier that you had a celebration. That celebration was not in the Secretary of State's Office, or was it?

MORIARTY: Well, I mean you can call it a celebration, I took him to dinner.

RICHARDSON: Okay, but there wasn't a party or a celebration or gathering of friends in the Secretary of State's Office?

MORIARTY: Not that I know of.

RICHARDSON: So when you referred to celebration you were talking about basically taking your son out to dinner.

MORIARTY: Right.

RICHARDSON: Because there seemed to be some confusion about whether or not there was some sort of a mini party or a celebration or a gathering of people in the office. You didn't mean to imply that when you testified before?

MORIARTY: No.

RICHARDSON: I think you also testified or perhaps Tim did that you left the Secretary of State's Office together and that you went through the building and met a few elected officials. Were

you with him when that occurred?

MORIARTY: I think I took him up to see the Speaker.

RICHARDSON: That would have been on the 21st?

MORIARTY: Yes.

RICHARDSON: Do you remember taking him to any other offices or introducing him to anybody?

MORIARTY: Well, I, he did meet some other people, I remember some people in the halls that were from Kansas City area. Bill Waris was in town.

RICHARDSON: Do you remember him meeting Speaker Pro Tem Barnes?

MORIARTY: Yes, I think he went and said something to Speaker Pro Tem Barnes.

RICHARDSON: At that point in time, did Tim announce his, that he had filed to Speaker, to Speaker Pro Tem Barnes?

MORIARTY: Yes, told him that he was a candidate.

RICHARDSON: In fact, was there some statement along the way somewhere that he even asked the Speaker for a contribution to his campaign?

MORIARTY: I don't know. Oh, the Speaker? He could have.

RICHARDSON: You don't recall if he gave him anything do you?

MORIARTY: No, he didn't get that far along, I don't think.

RICHARDSON: Secretary Moriarty, there seems to be some

skepticism about the fact that you believed Tim to be a filed candidate on the 21st and yet you never once looked at the famous wailing wall outside your office for the following eight days. I'm a little bit curious about that myself. Is there any reason you didn't check the computer printout on the wall?

MORIARTY: I never went out and looked at the wall on any days.

RICHARDSON: But your son, your first political candidate besides yourself in your family.

MORIARTY: But I think the whole thing that, whether Tim was a candidate or not was not a big deal to me, in the first place.

RICHARDSON: In what sense or why was it not?

MORIARTY: Well, that was a decision that he made. It wasn't something that I particularly wanted. I had a lot of reservation about it, and I think I voiced that.

RICHARDSON: Okay. I don't have any other questions, Mr. Speaker, thank you.

WITT: Promoted me.

RICHARDSON: Mr. Chairman.

WITT: Thank you. Further questions? Representative Gaw.

GAW: Judi, I'm having a little trouble understanding your answers to Representative Richardson's question about not looking at the wall.

MORIARTY: All right.

GAW: I mean I understand that you've testified that you had

some reservations about Tim filing and those reservations I assume included, what were those reservations first of all, let me ask you that question?

MORIARTY: The first reservation I had was probably selfish. I thought that it might hurt me in some way with other Democrats in that area, if he was going to have a primary. Secondly, I didn't think he could probably win if he beat the person in the primary, that he could probably win the General Election. That was an area that was a very fragmented area. You would have to go door to door. You would really have to have a commitment to winning it and a Republican won that district in '92, when a lot of Democrats won, so I felt that a Republican would win this year.

GAW: Were those your only two concerns?

MORIARTY: That was my main concerns, yes.

GAW: And it was because of these concerns, those concerns were part of the reason that you didn't go out and check the wall?

MORIARTY: No, that had nothing to do with that. I just, I never checked the wall. Why would I do that?

GAW: After your son filed, wouldn't you be concerned about maybe someone else getting in that race against him other than the one that had already filed previously?

MORIARTY: I suppose that if someone would have they would have told me. I did not check the wall, I never check the wall.

GAW: At some point, you walk

in and out of that office every day, I assume.

MORIARTY: Well, I didn't go study the wall. I walk past the wall or see the papers on the wall, Steve, but I didn't go study the names on the wall.

GAW: You never walked by that paperwork at any time between the 21st and the 29th and looked to see if anyone else had filed against him.

MORIARTY: No, I didn't.

GAW: Now on the 21st Tim had been over to the Department of Labor, is that correct?

MORIARTY: That's right.

GAW: And he was making inquiry about his ability to continue working with the Department of Labor if he filed as a candidate or something.

MORIARTY: What my understanding was he wanted to go and inform them that that's what his plans were.

GAW: Well, there has been conflicting testimony on that.

MORIARTY: Well, I understood him to say that they were very shocked when he told them he was going to be a candidate.

GAW: When he came over there it was in the afternoon and your recollection is that it was before 5:00.

MORIARTY: To our office at the Capitol? Yes.

GAW: Yes. You were not out there when he was doing the paper work.

MORIARTY: Not while he sat

down with Barbara, no.

GAW: And then several days go by, well, you go out that evening, I believe you testified to that, with Marie and with Tim.

MORIARTY: Yes?

GAW: Several days go by and you get into at least two conversations with Tim on the 29th over the telephone and the initial conversation, one of the questions is from Tim inquiring about whether he is filed.

MORIARTY: I don't know if he inquired whether he was filed, he just said, "Is there anything else I need to do, Mom?" Something like that, he made some kind of an inquiry.

GAW: This was after you and testified and Tim has testified that he believed that he was filed on the 21st.

MORIARTY: Right.

GAW: And then you went and talked to Barbara Campbell, after that phone conversation and after that is when she stamps files his work sheet.

MORIARTY: Well, I didn't know that at the time, but I guess that's when all this took place with the documents.

GAW: And then there is this declaration generated that's dated the 29th and then after that you have another phone conversation with him?

MORIARTY: Well, now I didn't know all of those documentations were being generated or shuffled around. I thought he had, when I asked her is there anything Tim needs to do and she said, "No," I never

looked at any paper work. I never saw that til it was faxed to my desk, I didn't know what that file contained.

GAW: But you had another phone conversation with him after the 1:15 in the afternoon on the 29th?

MORIARTY: No, I couldn't have. I wasn't in the office.

GAW: You weren't in the office?

MORIARTY: I had three luncheons that day. I checked my schedule.

GAW: You didn't have a conversation with him after 1:15 in the afternoon on the 29th?

MORIARTY: Oh, well, I could have, I thought you said at 1:15.

GAW: No, after.

MORIARTY: Yes, sometime that evening I think I did.

GAW: Now you have a somewhere and I think I'm getting pretty close to having an opinion about what the date is when this episode goes on in your office about getting Tim's signature, Jim Kolb was in here testified yesterday that he believed you calculated by, based upon the \$10 a day, and what it comes up to \$200 and it looked to me like we were talking some where around May the 10th, so somewhere in early May I would assume you make an inquiry of Nadine to make a telephone call or Juli?

MORIARTY: Juli.

GAW: And Juli makes a phone call for you to Margaret Freeman?

MORIARTY: I don't know who she talked to.

GAW: But to Elections, is that correct?

MORIARTY: I asked Juli to get me a copy of Tim's declaration.

GAW: All right. Juli testified that you asked her to get you a copy of Tim's signature, if I remember right. Do you disagree with that?

MORIARTY: I don't know if that's her recollection, I was just wanting a copy of his declaration, that's my recollection.

GAW: Well, I'm still having trouble with understanding why you needed a copy of that declaration. You got a copy of the work sheet first. Juli brought that back to you, is that correct?

MORIARTY: Yes.

GAW: And that work sheet was in front of you, but you told Juli to go back and get a copy of that declaration.

MORIARTY: I did not study the work sheet. She brings me this faxed copy of this work sheet. That's not what I'm looking for.

GAW: I want to know why that information on that work sheet was not sufficient.

MORIARTY: I wish that I would have just looked at the work sheet and used it, Steve, but I wanted, it was not what I was looking for. I wasn't even familiar with the work sheet that were filled out, out there. It's the first one of those that I had ever looked at. Then I asked her, I said, "No, I want his

declaration of candidacy. There is another paper."

GAW: Juli says, if I remember correctly, that you needed a copy of his signature. That work sheet didn't have it on there. So you asked her to go back and get the declaration because it didn't have a signature on that work sheet. Is that an incorrect, incorrect in your recollection?

MORIARTY: I just, I know that I wanted a copy of his declaration. There should have been a declaration with his name on it that would have meant he was a candidate.

GAW: Did you want a copy of the declaration because you needed his signature?

MORIARTY: No, I wanted a copy of his declaration that showed he was a candidate, so I could complete that form.

GAW: Now the other day you testified, and the only thing I remember you saying, that the only thing that wasn't on the, the only information that was missing that wouldn't have been on the work sheet, was the date of the primary.

MORIARTY: There were a couple of differences after I had been asked about that. There was another piece of information, I'm not sure which it was.

GAW: You still don't know today what it was?

MORIARTY: Well, I didn't go back and study it.

GAW: Well, the only thing I can see on there that is missing, that is different is that there is no signature.

MORIARTY: Well, that's a very important thing to find out. I think it seems strange that I would find it out and then tell on myself that, "Hey, I've really goofed up. I want to be accused of a crime. I found my son's not signed his form. Let's get me charged with a crime here?" Why would I dig that out?

GAW: Well, that's what I'm trying to figure out. If the work sheet didn't have the signature on it and you needed his signature to fill out his ethics report, is that why you needed the signature off, you needed a copy of his signature?

MORIARTY: I was expecting to get a copy of a signed declaration of candidacy. That is what I expected to receive from Elections.

GAW: And what did you need off of that signed declaration to put on the Ethics report?

MORIARTY: Information, information to fill out.

GAW: And what information was not on that work sheet that was on the declaration?

MORIARTY: Now I'm just going to say this one more time and you can believe me or you can not believe me and I've told it probably, that's the same story I've told every time I've been asked, because it's the truth. I expected to get a signed declaration of candidacy. That was the only form I expected to have faxed to me. The work sheet I was unfamiliar with; I wasn't expecting the work sheet. I said, "This is not what I'm looking for." There is a declaration, there is something that is different for a declaration of candidacy than a work sheet

and that is what I wanted to see.

GAW: There is something but you don't know what it is?

MORIARTY: Pardon me?

GAW: I'm still waiting for you to tell me what is the difference and I haven't heard you tell me. I'm just after the answer to that question.

MORIARTY: I'm just telling you that's what I wanted. I don't know. I didn't evaluate the difference. I knew that if he was a candidate that he had a candidate declaration, not a work sheet.

GAW: The other day when you testified you were going through an evaluation and explanation that the documents were different, that there was different information on it, and now you are telling me you didn't even look at it. That you didn't know.

MORIARTY: At that time I didn't. I just knew it wasn't what I was looking for. It wasn't what I expected to find from a candidate in a candidate's declaration.

GAW: So your explanation today is that you did not look at the work sheet at all. You weren't familiar with it so, but you only wanted the declaration and, is that your testimony today?

MORIARTY: That's what I've always said, that I asked for the declaration of candidacy.

GAW: The other day when you testified, it is my recollection and everybody here can make their own judgment about what their recollection is . . .

MORIARTY: Representative Witt asked me what was the difference. Since this has all come up, there are a couple of differences of information that are required on there. I was asked that and I looked it up. I can't just state what it is right now without going back and looking, but if that's important we can look at it.

GAW: The important thing is whether or not your story is the same to me, Judi. On this, Jim Kolb was in the office that day when this discussion took place about this signature being needed on the ethics report?

MORIARTY: I think so. I think he said since then that he was.

GAW: Was he in there when Barbara Campbell was in the office talking about needing a signature?

MORIARTY: I don't recall that, that he was. And I did not make any of those statements that she claims about go do this right now and all this, I mean you did not order her around in that manner and I did not order her around in that manner.

GAW: Did you have difficulty with Barbara Campbell at that point?

MORIARTY: No, but she wasn't the type of person that you ordered around and Jim definitely never ordered her around.

GAW: And you did not call Tim and tell him to come sign the document?

MORIARTY: No, I'm sure that I informed Tim of this.

GAW: Now, Mr. Lee says in his

notes and in his initial interview with you you said that you immediately called Tim and told him to come down and sign after consulting with Mr. Carroll.

MORIARTY: Well, I don't know. My recollection is that when Tim and I talked I told him what had happened because I thought, you know, of a concern.

GAW: Well, is Mr. Lee incorrect in what you told him the first interview?

MORIARTY: I don't know if he is incorrect or not.

GAW: Is it possible that you told him that in the first interview?

MORIARTY: I don't recall, Steve, what he has got written down there.

GAW: So you don't know whether you told him this or not?

MORIARTY: Did he have that on a recorder or something or is that just something he has written from memory

GAW: I can't tell you the answer.

MORIARTY: Well, I don't know, I don't recall either.

GAW: You don't know whether you told him or not that this statement. Do you want me to read it again to you

MORIARTY: No, you're saying that I told Tim to come and sign or something like that?

GAW: Yes, it says, "In her initial interview Mrs. Moriarty had also said that she had immediately called Tim and told him to come down and sign after

consulting with Mr. Carroll."

MORIARTY: I don't recall. I know that I did discuss with Tim the fact that his signature was left off.

GAW: So you don't know whether you told him to come down and sign it.

MORIARTY: No, I was not in any hurry to get him down there until we found an answer.

GAW: Is it possible that you did tell him to come down and sign it?

MORIARTY: I don't believe I did at that time, no, not immediately after discovery. I was just sharing with him the fact that his signature had been left off of that and he thought he had signed the documents. I remember him saying that.

GAW: Oh, he told you that he had signed the documents?

MORIARTY: Yes, I believe he . . .

GAW: That was in your conversation with him at this point?

MORIARTY: No, but he thought he had signed everything he needed to when he came into file.

GAW: He thought he signed something that day.

MORIARTY: When he came into file?

GAW: Yes.

MORIARTY: Yes.

GAW: He told you that?

MORIARTY: I'm sure he did. He's, I thought, he had always said he maintained that he signed whatever Barbara told him to.

GAW: And that was in May

MORIARTY: No.

GAW: that you had this discussion with him?

MORIARTY: When he found out his signature was missing, he thought that he had signed what he needed to when he was in.

GAW: But when did you have this discussion, when did you come to know that from him?

MORIARTY: I don't know.

GAW: Was it in May?

MORIARTY: I don't know the date?

GAW: Was it while he was still a candidate?

MORIARTY: I don't know?

GAW: Do you believe it was?

MORIARTY: That he had told me that while he was a candidate? It could have been?

GAW: Can you explain to me why it is that he made a press release the day he announced he is withdrawing saying that he did not sign his declaration of candidacy form then?

MORIARTY: Well, we didn't have any proof. I'm just telling you what he thought he had done. There was nothing that he that we had in our hands that showed, he hadn't found that declaration at that time. It wasn't until that night, that

night, after he made that statement to the press. That's the very night he found that in his file. Why would he have stood up and said he didn't have a signed document and then go home and find one, if that's going to do him any good?

GAW: I'd like to know the answer to that, too.

MORIARTY: Right, I mean if you were going to make one up and use it, wouldn't it make good sense to have it that day when you needed it?

GAW: Why was he telling you before that day that he had not signed it or that he had signed it?

MORIARTY: He thought he did, I'm just making a statement that he had thought . . .

GAW: But then he had made a statement on that day he withdrew saying that he did not sign it.

MORIARTY: Well, all we had was that other, unsigned document.

GAW: Did you know who prepared his press release statement that day when he withdrew?

MORIARTY: I believe my attorney, Roger Brown, did.

GAW: Roger did it?

MORIARTY: I believe he did.

GAW: Were you aware that Tim made statements to the AG's investigator that same day or within a few hours of that day saying that he didn't, if he had signed any declaration of candidacy he wouldn't have had

to gone back and signed it in May?

MORIARTY: Right.

GAW: Did you know he made that statement?

MORIARTY: No, I haven't seen those, but I could understand how he would say that.

GAW: Well, I'm having trouble understanding why he could say it, if he was telling you before hand that he signed his declaration of candidacy. Then he says he didn't sign it and then he says he did sign it.

MORIARTY: Well, he didn't have any proof, Steve. He just thought in his mind that he filled out all the paper work Barbara gave him to do and I think he has stated that. One thing he always carried with him was his paid receipt.

GAW: He always had his paid receipt all the time?

MORIARTY: In his billfold, I had seen him, well I don't all the time, but I had seen him show it to a couple of people as proof that he was a candidate.

GAW: Did he have some question about whether some people might not believe he wasn't one? On the day do you know what day he came in and signed? I assume he came here and signed the document dated the 29th?

MORIARTY: I don't know.

GAW: You don't know if he came here or signed it somewhere else? I mean when I say came here to Jeff City?

MORIARTY: I'm sure he went

to the Elections Division, but I don't have any idea what day it was.

GAW: Okay. Now here is where I'm having a lot of trouble. We have talked to everybody in the Elections Division. Everybody that I know of that we could talk to, and not one of them will say that they got that file out for Tim to sign that declaration.

MORIARTY: There was a lady that testified at trial that she saw him and talked with him right outside the Elections Division the day he came to sign, so maybe you can get her over here.

GAW: Well, this is, what's her name?

BERKOWITZ: Anne Woolery.

GAW: Is that true?

MORIARTY: That's right.

GAW: And where is she from?

MORIARTY: She works in the UCC Division.

GAW: No, where does she come from.

MORIARTY: From Sedalia.

GAW: From your area?

MORIARTY: Yes.

GAW: When was she employed?

MORIARTY: I don't know.

GAW: After you took office?

MORIARTY: Yes.

GAW: Does she go to your church?

MORIARTY: No.

GAW: Did she see him signing the document?

MORIARTY: No, but she knows Tim. She visited with him out in the hall when he was, he told her he was in a hurry. That was her testimony. You'll have get with her.

GAW: She doesn't remember who he saw in Elections, does she?

MORIARTY: I haven't heard her say.

GAW: I haven't seen anything from any documents that I've seen where she said that she knew who he talked to. And what I'm trying to figure out is, who pulled that file out for him to sign? Do you know?

MORIARTY: No.

GAW: Have you ever talked to any of your people over there about who it was that got that file out for Tim to sign it?

MORIARTY: I asked someone if they had seen Tim come in to sign, but no one will say.

GAW: That's over in elections you asked. How many people did you ask?

MORIARTY: I don't know.

GAW: Who did you ask?

MORIARTY: I don't know. I asked Shelley Brown.

GAW: Did Shelley say that he had seen him sign?

MORIARTY: No.

GAW: Did Shelley say if he

knew who had watched him sign it?

MORIARTY: No.

GAW: Do you know where those files are kept over there?

MORIARTY: I do now.

GAW: You didn't know then?

MORIARTY: No, not really. I didn't. They were in a side room.

GAW: Not locked up?

MORIARTY: I don't know if they keep them locked or not.

GAW: They are in cardboard boxes in cardboard file boxes in that room?

MORIARTY: I don't know that. I think there's metal shelving, isn't there? I don't know, whether it's cardboard.

GAW: But you have no explanation as to how Tim came to sign that document?

MORIARTY: No, and I have no explanation as to what happened to his original document other than what I have learned through the committee's efforts and I think that is quite earth shaking, in my opinion.

GAW: Have you talked to Nadine about this?

MORIARTY: No, I haven't.

GAW: You just have not talked to her at all about this incident, about deleting that document?

MORIARTY: No, I haven't.

GAW: And you haven't, is there

any internal investigation going on within your office about her role in that?

BERKOWITZ: Mr. Gaw, I'm sure you know that there is an ongoing investigations and any effort by her to talk to anyone about it could be construed as tampering with witnesses.

GAW: Is there any internal investigation going on in regard to keeping her as an employee in your office?

MORIARTY: Well, I just, you know, she just testified day before yesterday, was it yesterday or day before?

GAW: It was early in the week.

MORIARTY: This is Wednesday.

GAW: But there is none ongoing at the present time, is that correct?

MORIARTY: I don't know exactly how it is going to be dealt with.

GAW: There is no internal investigation going on right now is that fair to say?

BERKOWITZ: Mr. Gaw she has taken the Fifth Amendment, obviously she can't be talked to.

GAW: Well, we had another witness over here that has talked to her and who has visited with her and also works in Judi's office and who testified about what she has said to her, so I would think that it would be fairly easy to get that information in determining whether or not she got to remain as an employee or not.

BERKOWITZ: You weren't

successful and I'm not sure that we would be any more successful.

GAW: No, I said we were successful.

BERKOWITZ: Getting testimony from Nadine?

GAW: Getting testimony from one of her co-workers that works in your office about what Nadine has said to her.

BERKOWITZ: Well, we are not prepared to draw any inferences from persons taking the Fifth Amendment.

GAW: Well, I'll leave you to that role and you can decide what you want to do with it. As far as this filing is concerned, Tim made a decision to withdraw from the race. Those signatures that were on that document of Tim and Barbara both were on there after March 29th deadline. Is that correct?

MORIARTY: That's correct.

GAW: I have no further questions, Mr. Chair.

WITT: Any further questions? Representative Wible.

WIBLE: Little bit I would like to follow up on. When Tim Moriarty spoke to this committee, it was his testimony that when he received a call to come in and sign the paper that he did not talk to you about it at that time. And he went on further to say that sometime after that, and he couldn't recall exactly when, he called you and told you about the fact that there were no signatures on the document and that your response was, well, shock. I guess, as I recall his testimony

and I'm wondering why Tim would remember that he called you to inform you of the fact that there were no signatures and that you were shocked to hear it from him; whereas you recall that you discovered it and you called Tim and notified him. Can you explain that?

MORIARTY: I did discover it.

WIBLE: So do you think Tim's recollection is just totally flawed?

MORIARTY: I don't know. I can't draw assumptions from what you've questioned Tim over and his recollection. If he was trying to tell you my reaction as to why there was no signatures, was shock that was probably what he meant. I don't know, but it definitely was.

WIBLE: Well, he testified that he informed you and you testified that you informed him.

MORIARTY: Well, how could he inform me when I was the one that found it?

WIBLE: I don't know, there are a lot of things that are unclear.

MORIARTY: Maybe he misunderstood the question.

WIBLE: I would like to go back, if we could, to the time period between the 21st and the 29th. As Secretary of State when your son filed for an office, I would think I would assume that that would be a fairly newsworthy thing that occurred and I'm curious after he came in and filled out the papers on the 21st and he assumed and you assumed, according to both of your testimony that he was a filed candidate, I'm curious at that point, on the next day, did

you receive any inquiries from or any inquires or any comments from others in your office about the fact that, "Oh, I understand that Tim has filed" or anything commenting about it at all?

MORIARTY: From the media or from my employees?

WIBLE: Let's go first to any employees.

MORIARTY: They all seemed to know he had filed.

WIBLE: How did you think they knew?

MORIARTY: He had been in there and visited with them.

WIBLE: Were there any conversations about it?

MORIARTY: Yes.

WIBLE: To you?

MORIARTY: Yes.

WIBLE: And who were they with?

MORIARTY: Carolyn Smith had visited with him the day he came in to file. She and her daughter were there.

WIBLE: And what was the conversation with you?

MORIARTY: With me? Oh, I think I discussed some of my concerns with Carolyn and maybe with Jim Kolb.

WIBLE: And those concerns, were they the ones you expressed to, I believe it was, Representative Gaw?

MORIARTY: Right.

WIBLE: So at that point you

were not real pleased about the fact that he had filed.

MORIARTY: Well, I wouldn't say I wasn't pleased. Just telling you, you wanted to know my reaction, I was just telling you some of my thoughts about it.

WIBLE: All right. Who were some of the other conversations with?

MORIARTY: I don't know, I don't even know what I did the next day or two.

WIBLE: Then do you recall anyone from the press approaching you about for a comment?

MORIARTY: No one from the media cared. Tim had a press release prepared. He tried to give it to the Kansas City Star and some other people and Jim Wolfe finally wrote an article on It's a Mother's Son and another relative that had filed down around Rolla, someone who Ichord, talking about the relationship of some of the media, but no one cared that he was filed for a State Representative seat in a primary. No one tried to interview him or cared about his press. I don't think they ever wrote about it.

WIBLE: Well, I'm asking you if anyone came to you. Anyone from the press asked you for any comment about your reaction to your son's filing?

MORIARTY: No.

WIBLE: Now was that between the period, time period between of the 21st and the 29th that we are referring to?

MORIARTY: I don't even recall what I did between the 21st and the 29th. I tried to check my schedule to jar my memory a little bit, but I don't recall anyone talking to me about that.

WIBLE: How about following the 29th?

MORIARTY: I don't recall.

WIBLE: You don't recall ever making a statement to . . .

MORIARTY: The only person that ever inquired was Jim Wolfe and he did a small story.

WIBLE: Do you know when that was?

MORIARTY: I don't remember.

WIBLE: You don't recall when his first inquiry was in the time period between March 21st and March 29th?

MORIARTY: Oh, it was later after filing. I think he was looking at all the filings and just trying to draw from a story.

WIBLE: How about people in other state departments, did any employees of anyone else, other state employees, did anyone approach you and comment to you about the fact that they had noticed that Tim was filing or had filed?

MORIARTY: Bill Boucher knew that Tim had filed.

WIBLE: When?

MORIARTY: I don't know when.

WIBLE: You don't recall whether it was before or after March 29th?

MORIARTY: He knew before.

WIBLE: And how do you know he knew?

MORIARTY: And in Tim's notes, he had notes that he had found about his coming to Jeff City to file the night he found his declaration, there was items of things to do on a yellow legal pad that he had down 3-21-94 and one of those things was to see his boss, to file with the S.O. S. I'm not sure to talk to maybe Speaker Griffin.

WIBLE: I'm not sure how that relates to the question asked.

MORIARTY: Well, I'm just saying that he had down some items that he wanted to do and he had in those items, I think, he had spoken to a Democratic club on the Saturday before telling them that he had kind of an outline of something that he was going to tell them about coming down to file for as a candidate.

WIBLE: My question was how do you know that Bill Boucher knew that your son was a candidate?

MORIARTY: Because he had encouraged Tim to run.

WIBLE: And you stated that somewhere between the 21st and the 29th he knew that Tim was a candidate. How do you know that he knew that?

MORIARTY: I don't know. I mean you would have to ask Bill. I don't know. He knew ahead of time that Tim was going to file. I think he talked to him the day he was down here.

WIBLE: And you would have heard that from Tim or from Bill?

MORIARTY: You can ask Bill,

he can confirm.

WIBLE: I'm looking for anyone that would have said something to you between the 21st and the 29th about Tim's candidacy.

MORIARTY: Well, he could have, Mr. Bouch r could have.

WIBLE: But you don't specifically recall anyone doing that?

MORIARTY: Well, not specifically, except in the office; I think that it was discussed that Tim was a candidate.

WIBLE: Did you think it was at all strange that you, that people were not approaching you and either congratulating you or saying, "Hey what do you think about your son as a candidate?" or

MORIARTY: No.

WIBLE: You didn't expect to hear any comments about it?

MORIARTY: It, no one cared that he filed, it was kind of like when I filed for office, no one cared that I was a candidate.

WIBLE: How about following March 29th, did anyone care?

MORIARTY: Only those people he was getting to be concerned about it being a candidate. I don't know. He started campaigning. He was going to a lot of meetings where he lived. I was not running his campaign.

WIBLE: On March 29th did you get any comments from anyone about Tim's candidacy?

MORIARTY: No.

WIBLE: That you recall?

MORIARTY: No.

WIBLE: Did you get any inquiries from the press, March 29th or shortly thereafter?

MORIARTY: No.

WIBLE: No one asked you to make a statement about your son as a candidate?

MORIARTY: No one at that time cared.

WIBLE: Do you still have a copy of the documents that Representative Richardson gave you to look at that that you had signed. The form that you signed for the ethics commission where you signed Tim's name, now you indicated earlier that that you signed that just as you would write Tim's name rather than try to make it look as if Tim had signed it, I believe that's how you answered my question.

MORIARTY: I don't recall what I said. I signed his name, I told you that.

WIBLE: Do you have a copy of a document that Tim signed in front of you? I'm going to ask you to look at that document because I don't have my copy.

MORIARTY: That's the only one I have.

BERKOWITZ: That's exhibit 24. Right?

WIBLE: And it is your testimony that that was your hand writing on that, on that document?

MORIARTY: Yes.

WIBLE: All right. (End of tape #4)

WIBLE: But you signed it Tim Moriarty. When you had the declaration of candidacy pulled, you were looking at, you wanted to make sure that you were doing it in accordance with the way he was filed as a candidate is the way I understand it. That's one of the reasons you wanted to look at the declaration of candidacy.

MORIARTY: Well, if you'd noticed, I typed his name or someone did, I think I'm the one that typed his name and that's all filled in exactly as the declaration.

WIBLE: But you didn't sign it that way?

MORIARTY: It doesn't have to be.

WIBLE: Okay. I don't think I have any more questions. Thank you.

WITT: Further questions? Representative Shelton.

SHELTON: Thank you. Have you hired any other employees other than Charles Campbell from vacant positions or lapsed funds since you've become Secretary of State?

MORIARTY: I don't know. You would have to talk to the budget people. Did Jim give you some answers on that, you had him in here?

SHELTON: I'm inquiring of you as of now.

MORIARTY: I don't know.

SHELTON: What are your plans to deal with those employees who have come before this committee and have decided to withhold information or to be

untruthful?

MORIARTY: I don't know.

SHELTON: How do you plan to pay the management advisor?

MORIARTY: We have funds for part-time help.

SHELTON: Where did that come from?

MORIARTY: They are budgeted funds.

SHELTON: You mean we budgeted money for part-time help?

MORIARTY: Yes.

SHELTON: For what purpose?

MORIARTY: We hire a lot of summer help.

SHELTON: For a specific purpose?

MORIARTY: They called and checked with the Office of Administration and they advised us that we could do that.

SHELTON: Yesterday, I asked Mr. Kolb about his role in the Secretary of State Office as the Executive Deputy Secretary and what he related to me was that basically his functions were confined to the Information Center, is that correct?

MORIARTY: Basically.

SHELTON: Okay, and we also asked him who ran the Capitol Office when you were out of State and he said no one. He said you were in charge of the Capitol office and the Capitol Staff.

MORIARTY: Well, his role came

into play when I was out of state. We have people that are in command when one is gone. It falls in line and by statute he is the next in line.

SHELTON: When you are out of town?

MORIARTY: Yes, in my absence the statutes said the Deputy Secretary of State then fills that role.

SHELTON: Did he have the power to fire the communications director, if there was reason? Would he have that authority?

MORIARTY: He could have, yes.

SHELTON: He had the authority to fire Barbara Campbell, if it was necessary or he had reason?

MORIARTY: Yes.

SHELTON: Someone, I don't know who it is, on the committee asked you who did you talk to in Elections about your son's filing and you said you believed that you talked to Shelley Brown. The question is that as Secretary of State why would you talk to Shelley Brown, why not . . . ?

MORIARTY: I didn't, Mr. Shelton, Representative Shelton, I was asked a second question who did I inquire of over there that might have seen Tim that was when I said I . . .

SHELTON: Okay, well that lady works in another division, right she doesn't work in elections?

MORIARTY: No, it is a man and he works in Elections.

SHELTON: No, your comment was that somebody from another division saw Tim when he came in the building to sign the declaration.

MORIARTY: Oh, right. That's right, she doesn't work in Elections. She visited with him out in the hall when she said that he was in a hurry he was going in there to sign a paper.

SHELTON: When someone asked you about your inquiry about Tim's signature on the declaration you stated that you believed you inquired of Shelley Brown.

MORIARTY: No, I didn't say that. Someone asked me if I had inquired in Elections if anyone had seen Tim come in to sign.

SHELTON: Let me ask you this. Concerning your son's coming in in late April or early May to sign the declaration, who in Elections did you talk to to find out if Tim had come in to sign the declaration?

MORIARTY: I did not make an inquiry. Tim had told me that he had been over there.

SHELTON: Okay. The problem is none of these four people Joe Carroll or Gene Wiseman can sit at that podium and laughed and giggled during his entire testimony about this matter. Shelley Brown or Margaret Freeman, neither of those people indicated that they saw Tim on the day that he was supposed to come in and sign his signature. Now when Barbara Campbell went to sign the document, she spoke with Gene Wiseman. He pulled the file out. Gave it to her. She signed it. And that's fine. Are there any other people that work in Elections?

MORIARTY: Maybe some part-time.

SHELTON: Any other full-time people?

MORIARTY: I don't know. I don't believe there are right now.

SHELTON: Not only Tim but if anybody had to go to the Elections Division to sign a document, don't you think they would probably in most cases see a full-time employee who has some knowledge?

MORIARTY: I can't answer your question. I don't know.

SHELTON: These are your employees,

MORIARTY: Well, they work everyday. I don't know everything they do during the day. They answer a lot of mail and have a lot of people in.

SHELTON: No, we're just talking about the declaration. If one was to go to Elections in the Information System for a signature wouldn't it be likely that they would talk with someone in Elections.

MORIARTY: It is likely and...

SHELTON: Some one would have to go to the file and get the document and hand it to them.

MORIARTY: It is likely.

SHELTON: It would be one of those four people.

MORIARTY: I think that the important consideration is what happened to his original document which would have made that a point of no consequence, wouldn't have even

been in existence.

SHELTON: I'm not, we believe, or some of us believe that one of your employees did and they are still there and we ask you and I ask you that same question two weeks ago. The lady that tore up the document, is she still working there. You say I just learned of this tonight and this is two weeks later.

MORIARTY: That's right.

SHELTON: And she come in here grinning and smiling, taking the Fifth, and she still there.

MORIARTY: I did not discuss it with her from that night and I didn't feel it was ethical. I felt that her testimony should come from her.

SHELTON: Judi, the only question I'm asking you is that if anybody failed to sign a document, a declaration, and the files are down at the Information System, Information Office, isn't it likely that they are going to have to see one of those four people?

MORIARTY: I don't know. It is possible.

SHELTON: You're the boss and you don't know? Thank you, Mr. Chairman.

WITT: Further questions? If not we will take a ten minute recess. (End of tape #5.)

microphones on so we can have discussion without having to bounce back and forth. The question at this point, I believe, that we have heard from all of the witnesses regarding the filing of Tim Moriarty and the circumstances surrounding that. The question at this point is do you believe that there is good cause to proceed with one or more articles of impeachment at this time?

SHELTON: Mr. Chairman, after looking at the statute concerning impeachment, it is my belief that the testimony that I've heard during these hearings certainly will, we should look at incompetency by the Secretary of State and pursue that.

WITT: Is there a feeling among the other members of the committee about whether or not we should begin at least drafting some draft articles in any form for consideration by the committee, and obviously there are various grounds we could move forward on?

WIBLE: Mr. Chairman, after the testimony that we have heard and after reviewing the facts of the entire events that we have been looking at here, I think that there are reasonable grounds to believe that there is cause for impeachment, and I would be in favor of going forth with an article of impeachment at this time.

SHELTON: Could I ask her a question? Any specific grounds?

WIBLE: Well, in my mind the thing that is clear is that following March 29th, following the filing deadline, the Secretary of State by her own admission knew that the documents on file for her son, his declaration of

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WITT: Call it back to order. I have asked to have the

candidacy, did not have signatures, and she knew by her own admission that those documents were going to be "corrected." In other words her subordinates, her employees, were going to see that the signatures were placed on those documents. That is taking the testimony in the light most favorable to her. That is even if you assume that everyone that had inconsistent testimony with her was lying and you only took what the Secretary of State says. So in the light most favorable to her, I believe that we have grounds for that conduct and that could either be classified as a crime, as misconduct in office, or willful neglect of duty, as I see it.

WITT: Representative Richardson.

RICHARDSON: Mr. Chairman, we have heard in excess of 30 hours of testimony and there have been some startling revelations here that give me some concern. I am convinced in some issues that there are not grounds for impeachment. In other areas, frankly, I'm not quite sure. I have no objection to this committee meeting and drafting proposed articles, but before I can give any indication as to whether or not I think there's cause to adopt them and to move them to the entire House, I would like to see them first. The second concern that I have is the concern that I have voiced here before and that is that an integral part to one the most serious allegations still remains unresolved to us, and that is the testimony of Nadine Barrows. And I understand that I stood alone with that request to try to compel her testimony, but I would like to reiterate at this time my concern

about moving forward without it. Understanding it is the committee's will to move forward without it, I would ask that we at least be shown or participate in the specific drafting of articles before we vote, generally whether or not there is reason to impeach. The third thing that I have some serious concern about is that we started these hearings three weeks ago with the understanding that we were going to be looking at three things. One was improprieties or acts or omissions involving the election process. The second one was the issue of mismanagement in government as per the management report. And the third one dealt with newspaper articles and some ambiguous allegations about misuse of travel expenses and telephone expenses. It is my understanding with regard to the travel and telephone expenses that we have had an investigator detached from the Highway Patrol looking at this now for some time and that his indications are that he has found nothing of substance or significance in which to bring before this committee. With regard to the management issues we have all had at our disposal about 4,000 documents that we have read and reviewed and I believe it may be the general consensus that although her report card in that area might not be a straight A, in fact it might not even be a C, nevertheless there are probably no impeachable offenses or omissions that can be gleaned from that report. So I would move that we at least some sort of closure for this committee with whatever articles that we do bring out with regards to the elections, so that when we go to the body we can say these are the things that we have found

and these are the areas that we have failed to find in and that when the House votes they know that they are going to debate and vote on all the issues that have been brought to light that may or may not constitute grounds for impeachment.

WITT: You've raised a couple of different issues and I will try to address those in what I feel and what my understanding is. I have talked to the investigator that has been reviewing all of those documents, had previously reviewed a lot of them. When we have received information there may be some problems in one area. We have asked for additional documents and reviewed those. At this point the investigator has indicated to me that he has found no significant issues dealing with misappropriation of state money or misuse of state resources. There may be some minor things but nothing that is of major significance, at least that has been found at this point. On the, I think that if the committee will agree I can work with the staff. We can take a recess. I can work with the staff and draft some draft articles for consideration, will draft numerous different ones using different scenarios and let the committee members look at those and review them and then determine whether or not there are changes of additions or deletions that need to be made and whether or not we should move forward. But we need some place to start. If the committee would allow me that leeway to work with the staff and bring some of those forth and if there is additional ones that people want then we can go on from there.

WITT: Representative Gaw.

GAW: Thank you, Mr. Chair. I just think it is appropriate for me to speak in regard to the issues that have already been addressed by the other committee members. This has been a very difficult experience for everyone who has had anything to do with this proceeding, whether it's the Secretary of State's Office, whether it's any of the witnesses that came in to testify, the staff, the committee members that are here. It's a very serious, a very, very serious matter. It's been difficult to deal with and I just want to say that at this time and from my perspective and from what I have heard in this testimony and reviewed in the documentation, that I do believe there are reasonable grounds to proceed with impeachment. It is, a, this is a determination of mine, not based upon my judgment of the issues in total, but based upon my belief that we do have reasonable grounds. And that is the sole factor in regard to whether or not articles are issued, not whether or not we believe things absolutely occurred and the same requirements of evidence that are required and would be required at a hearing this matter before the Supreme Court, whether or not there are reasonable grounds to believe they did occur. And upon that factor and upon that level of judgment, I think that we do have grounds to proceed. I agree with Representative Richardson. It's important to review whatever you have that is going to be drafted and that we can talk about how those things should be worded and I think that is the next step in this. So that's my comment.

WITT: Is there any objection from members of the committee

to us adjourning. I'm going to put a lot of pressure on the staff and say we are going to try to get back within one hour's time.

SHELTON: Would it be appropriate or necessary for the committee to vote on, I guess, what appeared to or might have been a motion by you, to have you work up the drafts and...?

WITT: I don't necessarily think we need a motion for that or to vote on it. If there is no objection we can bring those, I can bring back drafts and then nothing will be voted on until the committee has had full time to discuss it, review it, and amend or change it, unless you feel... .

SHELTON: That's fine with me.

RICHARDSON: And in that light, I'm not sure that I made a motion or that a motion is necessary, but I'm curious about my concerns on the issue of closure. And you did address one of those issues. And not hearing any objections to that position, I'm wondering if can we assume that we are going to close this matter with just the election issues being considered?

WITT: My opinion at this time would be, and this is my individual opinion not that of the committee, that we probably can close. I would like to wait and see when we get articles out, if we get articles out, that we bring those forth and at that point I will recognize you for that motion.

RICHARDSON: Thank you.

WITT: Seeing nothing else, it is now what 2:10. I'm having trouble reading the clock back there with the glare. At let's

say 3:30, that will give the staff a little extra time to work with me and try and get something done. We will meet back here and I will try to have drafts of proposals for you and we will take them up at that time.

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WITT: I'm going to bring the committee back to order. I want to thank the staff. They did outstanding work in putting these all together in a short amount of time. I've prepared five different articles which are proposed. I'm not suggesting that we should pass all of these out or any one in particular or that all of them are valid. I was trying to listen to what the committee members felt is important and was trying to do different articles based on different issues. Article 1, basically patterns count 3 of the indictment, which is the count on which Judi Moriarty was found guilty by the jury and under the Constitution it talks about the different impeachable offenses, crimes, misconduct, incompetency, neglect of office, etc. The first one we did count 3 of the indictment as a crime using that as the basis for an article. The second one uses count 3 of the indictment, the underlying facts of that, not necessarily the jury's decision about that but the underlying facts that gave rise to that conviction or to that finding of guilt and states that those underlying facts constitute misconduct in office. Article 3 uses count 1 of the indictment, which is the count on which the jury hung up. It was a hung jury on count 1, and uses the facts underlying that as

constituting misconduct. Article 4 deals with the signing of the campaign finance report by another person and the facts of that giving rise to the level of misconduct. And article 5, Representative Shelton indicated a request for an article dealing with incompetency, and that was the article that we had proposed there. So that is basically the articles that I have asked the staff to draft up. I don't know if there are others that some one may feel are necessary or changes may need to be made to these. There is no real pride in authorship. There has been some time spent making sure the language was as appropriate as possible. We are not only looking at the language as opposed to what is appropriate for this committee and for the House of Representatives but also if the article does go forth to the Supreme Court, what we will need at that point to be to deal with on that level. The preamble that's there is one that we drafted basically using the preamble from some previous ones that have been drafted and trying to work with language to make it fit. I don't know if we have an extra set of copies. Mr. Berkowitz just came in. Do we have an extra set of copies here? Can you go find one of the staff people and see if we can get some additional copies of these? I don't know if there's any, I guess the preamble is premature at this point to even be dealing with until we decide whether or not we are going to proceed with any of the other underlying articles. Unless there is some objection, do we want to move down them one by one and see what changes or whether or not there is a feeling on the committee on each one of these? Starting with Article 1, that

basically uses count 3 of the indictment stating that those acts constitute a crime. Article 3 is the one that the Secretary of State was found guilty by the jury. Has everyone had a chance to look over that at this point?

GAW: Mr. Chair, I would like to have a few more moments if we could. We have just seen these things and I would like to study them for a few more minutes. I don't want to delay too much but I'd like to take a little more time.

WITT: Certainly, I'm not trying to rush anybody, I just wanted to give the overview at least as we are going into them, sir, so people understood where we're at. (End of tape #6)

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WITT: Is everyone ready to begin discussing proposed Article 1? As I stated earlier this basically patterns the indictment which is the charge on which the jury found the Secretary of State guilty. I know, Representative Gaw, you had some concerns about it. Why don't you proceed on it.

GAW: I have a couple of concerns. My main concern is, if Article 1 is going to be based on the jury's guilty finding and the jury's guilty verdict and the facts underlying that, I think that we should probably track the jury instructions that were given at trial. And at trial there was not a required finding that there was a directing, causing of the signature of Tim Moriarty to be placed on the declaration of candidacy, but I think from my standpoint it is just a technical point. I think that if the intent of Article 1 is to track the jury's

finding, then we ought to track the jury's instruction that went to the jury at that point and that's my immediate concern on that.

WITT: From looking at that if you turn to page 2, line 3, after the word "Moriarty," if you put an opening bracket there in front of that semicolon and then move down to line 5, after the word "candidacy" and put a closing bracket; then continue on in line 5 the word "additions," take the "s" off; continuing on line 5, the "s" would be taken off of "signatures;" and then place an opening bracket on that line in front of the word "Tim," going down to line 6, you would put a closing bracket after the words "Moriarty and," so that the sentence starting back up on line 2, would read, "which declaration was partly blank in that it had not been signed by Tim Moriarty so that with the addition of the signature of Barbara Campbell, the certificate falsely stated that Tim Moriarty appeared in the presence of Barbara Campbell on March 29, 1994, at 1:19 p.m."

GAW: I think it will probably solve my question about a technicality, my other question is

WITT: Would you like to do that in the form of a motion before we move on?

GAW: I would make that motion that those changes be made as you just stated and read.

WITT: Is there a second to that motion?

SHELTON: Second.

WITT: Motion to second, is

there any discussion? Seeing none, all those in favor will say "aye."

COMMITTEE: Aye.

WITT: Opposed, "no." The ayes have it. The amendment is adopted. Representative Gaw, you had another concern.

GAW: Well, this is a different kind of concern, I think that maybe shared a little bit. I think we need to make it clear whether or not this particular article is based upon the jury's guilty finding or if it is based upon the jury's guilty finding and things which have come to light under testimony to us. And I'm a little unclear about what the intent is as it is currently drafted. I'd just like for us to discuss that a little bit, if we could.

WITT: There are a couple of different ways we can approach this. One of the ways is that if we so chose to bring forth an article based upon the jury's finding, if we get a, if she is later sentenced and there is a certified copy of the jury finding of the sentence, we might be able to present that to the Supreme Court and have them rule on that article alone without having to go through a full evidentiary hearing in front of the Supreme Court, also. There is another option that we can bring this forth and say that in addition to the jury finding based on our own evidence we find that these constitute crimes. The reason I drafted this one in this manner was so that if we chose to we could rely upon the jury's finding. The second article that was drafted was based on the same set of facts but dealt with misconduct rather than crimes, which is a different standard,

but was the same set of facts to cover both scenarios as the reason why they were drafted in this manner. I'm open to suggestion from members of the committee. That is just a way of doing it that . . .

RICHARDSON: Mr. Chairman, it may be a little bit disingenuous of me to talk about this, because I don't intend to vote for it, but I would point out that there is, I believe, conceptually, a major difference between this committee making a finding and accepting the jury finding as grounds for impeachment as opposed to our making our own findings based upon our own investigations. There was considerable amount of concern, as you recall, and a very close vote on the House floor in the beginning, as to whether or not we were simply going to proceed on the count that took in effect "judicial notice of that finding" and a great deal of concern and uneasiness on the House floor. I share that concern. I think our obligations here under the Constitution within this body, within this committee, is to make our own findings. And I think the fact that she committed a crime does not necessarily make it impeachable. And the fact that she didn't commit a crime doesn't necessarily let her off the hook as far as whether she should be impeached. And it seems to me that if we are going to proceed on this as criminal conduct that we ought to at least proceed based upon our own investigations and our own findings and not just take blind notice of a criminal proceeding for which we have not even received the transcript and upon a jury finding that is still basically incomplete because post trial motions have not been

filed. We don't know the outcome of those, and she certainly has not even been sentenced yet. So I would feel extremely uncomfortable proceeding simply based upon the jury finding and I think that there will be a lot of trouble on the House floor with it and there will be a lot of sentiment in that direction if we take that one to the House floor.

GAW: Mr. Chair, if I could?

WITT: Certainly.

GAW: What I would suggest that we consider doing is having, leaving this article as amended in to vote on it but to also having an additional article which is similar to the one that you have now in 1 and 2, more like it is in 2, but also making the allegations that those things are crimes and that we are making a finding that those crimes or that crime has been committed and vote upon an article that is drafted like that. So that basically we have, even though we are dealing with the same subject matter on all three, the approach procedurally is not quite the same. It gives us a little more flexibility and I think probably addresses, at least allows, some of the concerns that Representative Richardson has to be addressed. While he may not be willing to follow the guilty finding on its own; it may make a difference to some if there is a direct finding by us based upon the testimony and other documents of those underlying facts.

WITT: And, I like that suggestion for the main reason that I am convinced from the testimony that we have heard that the Secretary of State did order Tim Moriarty to come and sign his name to that document.

And I believe that also constitutes a crime and would like to see us be able to move forward on that. The Article 1 as it is was drafted to go with the jury finding. I think we could probably take Article 2 and throughout it wherever it says "misconduct" change it to the word "crime" and it would create the Article that you are discussing. But prior to doing that let's first deal with this. Is there any further discussion on Article 1 as it is drafted with the amendment adopted by Representative Gaw? Representative Wible.

WIBLE: I would just agree with the comments that Representative Richardson made about the fact that we have a jury verdict, but if we are basing an article on that, one I think it is premature, because that whole process is not completed and I would feel uncomfortable basing an article of impeachment on that jury verdict.

WITT: Further discussion?

SHELTON: Just to say that I partially agree with what Representative Richardson suggested, but I think that Representative Gaw said it best where I think we should draft an article based on our findings and submit that to the full body.

WITT: As dealing with, and I don't have any problem at all drafting an additional article on that, a substitute article. Why don't we take these up and deal with each one of these. We will also deal with that as an additional article and that way we can make a decision on each one of them as we go through it. Do I hear a motion on Article 1? Or do I have any further

discussion on Article 1 as amended? Do I hear a motion on Article 1?

GAW: I'll make a motion.

WITT: Do I hear a second. I'll second the motion.

RICHARDSON: I assume this is a motion to adopt.

WITT: A motion to adopt Article 1 as amended by Representative Gaw's amendment. Call the roll.

SECRETARY KAREN REHAGEN: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: No.

SECRETARY: Representative Shelton.

SHELTON: No.

SECRETARY: Representative Richardson.

RICHARDSON: No.

WITT: By your vote Article 1 as drafted has been defeated. Next we have Article 2. This is the one that was drafted based upon count 3 using those facts as we have found them to be misconduct. This does still include Tim Moriarty in it. I don't know if at this point you want to change this one from misconduct to a crime and deal with it at that point and then also deal with it on misconduct or do this one first.

Representative Gaw.

GAW: I think we can just go ahead and deal with it as it is currently and we can have another article developed after we get through with the rest of the discussion and that's just a suggestion, I don't know.

WITT: Okay. Representative Wible.

WIBLE: I've got a couple of concerns about it, because I think it is important that this one be drafted very carefully. To me this is the most important article. The language nine lines from the bottom, we use the word "purposely cause and direct" and the four lines from the bottom we use "knowingly directing and causing." I know that is a technical matter, but it seems that we should be consistent there. The jury instructions used "purposely directed and caused." And further in relation to those same two words, in my opinion, there would be misconduct if, even if, there were no purpose, direct purposeful direction by the Secretary of State herself but if she knew that her subordinates were doing it and she did not intervene.

WITT: Knowingly allowing it to occur.

WIBLE: So I would like some language in there that purposely caused and directed or knew and allowed to occur or something. You know we need to work the language.

WITT: My expert draftsman Brent Butler, Brent have you followed along there, do you have...?

WITT: Representative Gaw.

GAW: Mr. Chair, I would, while we are working on this, I would suggest that maybe we examine whether this article ought to be split into two articles or perhaps three articles where the allegation in regard to Tim and the allegation in regard to Barbara are separated one place in each article and perhaps a third where they are combined in the way that they are here. Just simply because there is a, the way that this is drafted may require a finding on both, when I'm not sure that it is necessary to do that for purposes of this proceeding.

WITT: Okay, do you want to proceed on this one as it is one and then ask the staff to draft separate ones for each one?

GAW: Yes, I think that would be appropriate.

WITT: Okay. Connie did you have a motion as far as, what Brent just ran off with?

WIBLE: Yes, I move that we amend Article 2 as follows: at line 17 following the word "direct," insert "or did knowingly allow," open bracket before the word "that," close bracket after the word "that," and further amend that line 21 by inserting after the word "further," "purposely causing and directing or knowingly allowing" and inserting an open bracket before the word "knowingly" and following the word "that."

WITT: Would you read that last one back again after the word "further," "purposely causing and directing or . . .

WIBLE: Knowingly allowing."

WITT: And then eliminating the rest of that line, is that?

WIBLE: Yes.

WITT: So the line would read, "by Tim Moriarty; and further purposely causing and directing or knowingly allowing the signature of Tim Moriarty" on that one. Up above it would read: "did purposely cause and direct or did knowingly allow the signature of Barbara Campbell." Is that correct?

WIBLE: That's correct.

WITT: Is there any discussion on that amendment. Does everybody understand that amendment, first? Okay, is there any discussion? Will you make that in the form of a motion?

WIBLE: Yes.

WITT: Is there a second. We have a second by Representative Shelton. Is there any discussion? Seeing none, all those in favor will say aye.

COMMITTEE: Aye.

WITT: Those opposed, no. Ayes have it. The amendment is adopted. Is there any further discussion on Article 2?

RICHARDSON: Mr. Chairman, I don't have a specific suggestion, but I would like to throw it out for some discussion. We don't have in Article 2 in regard to the acts of any further language indicating that she knew or should have known that such conduct constituted or violated provisions of the statute. It seemed to me that that might be necessary or appropriate at least to include in there.

WITT: I'm sorry, repeat that again, explaining what your

point is.

RICHARDSON: We don't have any specific language in here that goes on to say that at the time she either caused the signatures or knew the signatures were being caused to be put on there that she had or should have had knowledge that it violated the statute. So I think, the knowing that we are talking about, the knowingly or purposely refers to the act itself. It doesn't refer to whether she knew or should have known that it violated a statute.

WITT: Well I think that if we were talking about using this as a crime that may be more appropriate. Using it as misconduct, I don't necessarily think that is as appropriate and I think it would also take on an additional burden of proof that we don't necessarily have to have.

RICHARDSON: If she didn't know of if she reasonably should not have known, then it probably does not constitute misconduct, much less a crime. We are dealing with, this Article right now, we are dealing with is misconduct and may make the argument that even ignorance of the law is no excuse. If you are dealing with the criminal and we are dealing with misconduct one right now and I'm trying to think through this. I don't have any specific thought on it, but it occurs to me that her mens rea might be pertinent when you are looking at a non criminal level of conduct or misconduct which is what we are looking at.

WITT: I do think that takes on an additional burden that is not necessary. I think it, I think we can find that it constitutes misconduct whether or not she

knew or should have known it was going to violate a statute. Obviously she was ordering the change in an official document. Unless you've got something more I don't know that I'm convinced, but maybe there are other members of the committee that are.

RICHARDSON: Well, I guess my point as I'm trying to develop this in my mind is that we are dealing with the article that talks about misconduct and not the article that we will be dealing with here shortly, that deals with and tracks the criminal aspect of it. If she is to be found guilty of misconduct, then perhaps she should be found guilty of knowing that it was a violation of a statute or, at least if she didn't know, it was reckless that she didn't know it or that a reasonable person in her position should have known it. On a misconduct article it seems to me like it would be appropriate. Probably less appropriate on the criminal part.

WITT: Representative Shelton.

SHELTON: If you would allow me to or permit me to I would like to make a motion that we adopt Article 2.

WITT: I think there may be a technical change, if you'll withdraw your motion for just one minute, there may be a technical change that we need to make to this. Representative Gaw, do you have...?

GAW: Draw your attention to the bottom of page one of Article 2, where it says "the certificate falsely stated," the last several words. I believe the indictment said the certificate falsely stated, was it "falsely issued and stated."

WITT: I believe that is correct. So you are suggesting on the last line of article, page 1 of Article 2 after the word falsely we add the words "issued and"?

GAW: Well, I'm tracking the indictment, I'm trying to see whether I believe that is correct.

WITT: I believe you are correct in that.

GAW: I believe so, so I would move that the words "issued and" be inserted between the words "falsely stated" at the bottom of page 1 of Article 2.

WITT: Okay, is there a second to that motion? I'll second the motion. Does everyone understand the amendment to the motion?

RICHARDSON: You've just added the word "issued and?"

WITT: Right, after the word "falsely," so it reads: "the certificate falsely issued and stated," which tracks the indictment. Any discussion? Seeing none, all those in favor will say "aye."

COMMITTEE: Aye.

WITT: Opposed "no." The ayes have it. The amendment is adopted.

RICHARDSON: Mr. Chairman, I believe, I had the mike at the time, I feel that this is important and I don't know if there is any support on the committee for it but I would like to make a motion at this time that we do include the component that I was talking about in this article for misconduct that additional language that she knew or should have known was in violation of the statutes.

WITT: Where would you like placed?

SHELTON: Mr. Chairman, can I raise a point of order?

WITT: Certainly.

SHELTON: You asked me if I would withdraw my motion in order for Representative Gaw to add an amendment, and I courteously did that, hoping that you would come back to me so that I could offer my motion, before you went to Representative Richardson. And at this time I would like to offer my motion.

RICHARDSON: Mr. Chairman, with all due respect I had the microphone when Representative Shelton, before I relinquished the microphone, made his motion, and I think his motion was out of order to make in the first place, because I had the microphone at the time and was in the process of trying to articulate a motion when he interrupted me.

WITT: Can you state your point of order?

SHELTON: Yes, my point of order was that I had a motion on the floor and you asked me if I would withdraw my motion to allow Representative Gaw to add an amendment. And I just assumed that after he made his technical amendment, you was going to come right back to your good friend and colleague so that I may be able to offer my motion. And then you and then Representative Richardson just sort of jumped in.

WITT: Well there's been a little bit of jumping in over on that side. I don't know what you two.

SHELTON: He's my friend, too. But I would like to have my motion. I would like to offer my motion before we hear from him.

WITT: Because he is wanting to offer an amendment to it and if we adopt, if we go along with your motion and adopt the article, he will be precluded from offering his. I don't necessarily know that I agree with his, but I think we ought to allow him the opportunity to do that if you would be so gracious.

SHELTON: I'm always gracious.

WITT: Thank you, Representative Shelton. Representative Richardson, now that we have been so gracious how would you propose to amend?

RICHARDSON: I would propose to seek the guidance of our legal scholar Brent to assist us in drafting some language and to take just a moment to try and figure out where it might be appropriate for it to be placed.

WITT: Your purpose is to add that she knew or should have known at the time that she did these acts that they violated a statute?

RICHARDSON: Yes.

WITT: Okay.

RICHARDSON: It may not be necessary to get the precise placement of it, if there is no support for the motion.

WITT: Right.

RICHARDSON: So if you want to delay long enough for us to find the precise placement of it, we can, or if you want to see if

there is a second on it, it may take care of itself.

WITT: Let's first find out if there is any support on the committee for adding and I guess Representative Shelton has left the room. It didn't sound like he is going to support your motion. Representative Wible.

WIBLE: Yes, I would like to discuss it a little if we may at this time. The indictment does not contain any language like that for count 3 and the jury instructions do not contain that language, Representative Richardson. The indictment and the jury instructions don't contain the language that you are talking about. Why do you find it necessary?

RICHARDSON: We are not dealing with the crime on this article.

WIBLE: We are dealing with something less than a crime.

RICHARDSON: Right, now I'm sure that it would be appropriate, I don't know that I would offer it on the article relating to our finding or our supposed finding if we do that there was a crime committed, but I think with regard to misconduct, I think it is relevant.

WIBLE: So you want a higher standard for misconduct than for the crime?

RICHARDSON: Well, I don't know that it is a higher standard or not. I think that was suggested. I think it is a more appropriate standard, when you are looking at misconduct than it would be. I

think we are limited to a great extent when we deal with crime by what the case law and the statutory law is on the commission of crime. When we are dealing with misconduct, though, under this or as said in the Constitution, I think it is appropriate if we are going to find that she is guilty of misconduct that she knew or should have known, that what she was doing was wrong, otherwise I'm not sure that it can be determined to be misconduct under this particular article. It may not apply to the other article that tracks the crime.

WIBLE: But I follow that as saying that if she did not know she was committing a crime, she wasn't guilty of misconduct. The wording that you are talking about proposing, you are saying that if she didn't know, she either knew or should have known that she was violating a statute. In other words she was committing a crime and we are saying that we have to find she knew or reasonably should have known that she was committing a crime in order to find her guilty of misconduct.

RICHARDSON: Of misconduct.

WIBLE: Which I don't follow that reasoning. Why should she have to know, why should they have to prove that she knew she was committing a crime in order to be guilty of misconduct?

RICHARDSON: Well, I think just the term "misconduct" connotes some knowing level of mens rea.

WITT: If you are presumed to know the law and know that it is a crime, why shouldn't you be presumed to know that it is

misconduct? I also don't follow your logic.

RICHARDSON: It seems very logical to me that if you are going to say that someone is guilty of misconduct that they either knew or should have reasonably known that the conduct was inappropriate or violated a statute, whether it be criminal or civil, either one. It doesn't necessarily have to be a criminal standard. It could be a civil statute that didn't carry penalties. It could be a violation of a department policy. It doesn't have to be a crime. But it seems to me that if we are going to find someone that is guilty of misconduct, that we need to find that they also knew or reasonably should have known that their conduct was inappropriate or wrong or a violation of statute criminal or civil.

WITT: I think at this point we understand the, what the motion will be, we don't have placement on it yet, but is there a second for a motion to add the mental state of knowing that it violated a statute to this? Seeing none I believe the motion will die for lack of a second and now my good friend Representative Shelton, did you have motion?

SHELTON: Thank you, my good friend, Mr. Chairman. I would like to move, Mr. Chairman that we adopt Article 2 as amended.

WITT: We have a motion to adopt Article 2 as amended. Do we have a second?

WIBLE: Second.

WITT: We have a second. Secretary, if you will call the role on Article 2 as amended.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: Aye.

SECRETARY: It's a unanimous vote.

WITT: By your vote of 5 to nothing you have adopted Article 2. I believe Representative Gaw that you wanted to take what was just adopted as Article 2 and divide that into two separate additional articles.

GAW: Yes, Mr. Chairman, and it will take a little drafting. I don't know that we can just do that. So perhaps there could be somebody working on splitting that up so we can deal with it a little later, unless the committee is comfortable with doing that without seeing the draft.

WITT: Let me ask our brain trust back here, do you? I believe that what Representative Gaw would like to see is an article that would track Article 2 that we just adopted as amended, but divide that into two separate articles, one dealing solely with the

signature of Tim Moriarty, the second dealing with the addition of the signature of Barbara Campbell. If you could take a clean, maybe a clean copy of that and or maybe two clean copies and mark it appropriately. Could you work on that while we may go on to an additional issue? Is that satisfactory to the committee? And if somebody doesn't feel comfortable with it, we will go ahead and run it completely. The next one we have is Article 3. This uses the facts of count 1 of the indictment which is the count on which the jury became hung and could not reach a decision and finds that the facts of that count constitute misconduct. Count 1 was causing the declaration of candidacy to be filed without the candidate being present on March 29, 1994. Is there any discussion on Article 3 as drafted?

RICHARDSON: Mr. Chairman, I can certainly understand how the jury would have hung up on this issue. The testimony relating to the events between March 21st and 29th are certainly contradictory not only between and among the witnesses but between and among the various statements that the witnesses made. It's very reasonable to believe that Secretary Moriarty's version of that, at least in theory, and it is also plausible that Barbara Campbell's viewpoint could be believed, too. I found the testimony, the contradictory testimony, the lack of testimony that we were able to secure from a key witness, to just add to the confusion and lack of confidence in whether or not there was a crime committed by Mrs. Moriarty or even if what happened constituted misconduct. And for that reason.

I can't support the article.

WITT: Further discussion.
Representative Wible.

WIBLE: I agree with Representative Richardson on that. One of the things is that as he said there was so much conflicting testimony. I think the credibility of many of the witnesses was very much in question for me. And I don't feel that there was sufficient evidence to convince me that there was good cause to believe that these acts were committed that are alleged in Article 3.

WITT: Personally from listening to the testimony I am definitely not convinced beyond a reasonable doubt. The question is whether or not there is good cause to believe that these acts occurred. I don't, I, too, have questions about the facts of how this occurred based upon the testimony that we have heard and this article I drafted to bring forth for the consideration of the committee, but it is not one that I am 100% sold beyond a reasonable doubt that these facts occurred in the manner that they were alleged to have occurred. I do believe there is good cause to believe that the facts occurred in that manner. As beyond a reasonable doubt, probably not, based on what we have heard to this point. For that reason I brought it forth and like I said on all of these there is no real pride in authorship. I've brought them forth based on what I thought from listening to the committee and listening to the testimony that we ought to consider. Is there any further?
Representative Shelton

SHELTON: Yes. I would just like to disagree with my good

friends Wible and Richardson. On this article I think that the testimony will show that the Secretary of State did know, past March 29th that her son came to Jefferson City to file a declaration, one that had no signatures, and as the Chief Election Official for this State, either she knew or she should have known that that was not a completed document and he should not have been allowed to proceed with that and with that I will support Article 3.

WITT: Well, Representative Shelton, the difference between the facts alleged in this are, this one alleges that Judi Moriarty caused or directed the declaration of candidacy without the signatures on it to be filed on March 29th knowing the signatures were not there. It doesn't deal with anything that happened after March 29th with the addition of additional signatures. It only deals with the fact the allegations that these documents were filed intentionally or directed to be filed by the Secretary of State on March 29th knowing that Tim Moriarty was not present at that time. I think the main question is I think we all agree that they were filed on March 29th. I think we all agree that Tim Moriarty was not present in the Capitol building on March 29th. The question is did the Secretary of State order those to be filed on March 29th? I believe there is good cause to believe that she did. I could not go as far as beyond a reasonable doubt, which is the criminal standard, but we are dealing with misconduct and impeachment and that is. Is there further discussion?
Representative Gaw

GAW: Thank you, Mr. Chair.

This has been one of the most frustrating things and this whole fact finding tour that we've been on in determining what happened in that few day period. I mean, as it has been stated by several on this committee, there is absolutely no consistent testimony to depend upon. I just told somebody earlier in the day, you know, you look for roads to intersect where people would agree on points. You have a difficult time in this case getting people to agree. Either they tell different stories or they don't remember. And on this particular point the only thing that I have to go on, and I agree with your statement, I don't know that I could make a finding beyond a reasonable doubt on this case, in this particular count. I think that there is a real substantial question that in anybody's mind that here is this testimony, because you have to base it on the credibility of the witnesses, but some factors aren't really, are kind of standing out there alone and I think they have to be looked at. Number one, when Tim Moriarty came to the office on the 21st, it is fairly clear that he had already talked to Colleen Baker. If Colleen Baker testified here while she was some of what she testified to was impression on what Tim was going to do, one thing she was very clear about and that is that Tim Moriarty had to know by the 29th of March whether or not he could stay, stay and work for the Department of Labor. Now if his concern was whether or not he had to withdraw from filing, if he thought he had filed on the 21st, he could have done that after the 29th. That's not something that would have been a problem for him. But if in fact what he had to know was whether or not he could file

then it makes sense. It also then would make sense as to why someone would have held up the filing for him on the 21st, because he did not yet have that information. The documents that we have that we know were the official records of the Secretary of State are marked on the 29th. I think that the only person that I can see would have had the ability to influence when that was filed and also have the motivation to do that would have been the Secretary of State, unless Barbara Campbell would have just done it on her own. And I guess there is an argument there that you could believe that if Tim Moriarty had come in and said I need to hold up on this, I suppose there could be a possibility that she could hold that up, but it is not as believable as having Barbara Campbell's supervisor tell her that she needed to hold up on this because there was a problem on it. And because of that I think that while I have some very substantial questions about it, I do believe there is good cause on this particular article and I think from that standpoint it ought to be considered by the House in any event, even though I'm not very adamant on it. (End of tape #7)

WITT: I agree with you on that. I'm especially convinced that the Secretary of State knew that paper work was being held by the fact that she claims that she thought everything was filed properly on the 21st, yet during the time between the 21st and the 29th she never looked to see if he was filed on the wall, she never looked to see if he had an opponent, she never considered whether or not he had an opponent, she never checked anything. Tim Moriarty who talked to his mom consistently

over this period of time never asked, "Do I have any additional opponents?" And yet the last day of filing Tim calls and says, "Is there anything else I need to do?" And then they start checking to find out and then the filing occurred and that is what I base my belief that there is good cause to it and the fact that we know it was filed on the 29th. But as I said before, if I had to, if I were sitting on a jury in a criminal case and trying to decide if this was proved beyond a reasonable doubt I would have some real problems with that. Is there further discussion? Representative Richardson.

RICHARDSON: Thank you, Mr. Chairman. You are right. This is confusing and I keep trying to make these roads intersect and I keep trying to come up with some way that some of this testimony could be logically consistent, and you come up with some pretty strange or some pretty far reaching speculations, I guess, as you look at it them. It occurs to me that if we had an article here that dealt with whether Judi Moriarty knowingly started a process and then intended for it to be held, which would probably be improper, if not illegal, but certainly improper, then it would make sense that she believed that Tim had come in, paid his money, and filled out his work sheet, generated a declaration, signed it and it was all sitting there in the drawer. She had no specific knowledge of the technical aspects of the pleadings. She didn't know how the computer worked. She didn't know, didn't seem to understand the process that you have to be in the computer before you can generate a form. So it seems logical that perhaps she did think that he had done

everything that was necessary, including the signing of the declaration in the presence of an official, but that she believed that it was being held. And then when she did stick her head out the door on the 29th and say go ahead and file him that she believed that what was going to be filed was his signed declaration. The fact that Barbara Campbell says that she stuck her head out the door and said go ahead and file Tim, he won't be here, doesn't imply in the least that Judi Moriarty believed that she was, that Barbara was going to file a blank declaration.

WITT: But isn't the question whether or not it was filed on the 29th when the candidate was not present?

RICHARDSON: Well, I think it makes a difference in the way that this is worded and what we are talking about is Article 3 is we are talking about whether or not she knowingly directed that blank affidavit to be filed, because we've heard testimony that there had been circumstance where there was something started but not completed by accident or inadvertently that was later come back and was done, which I think softens that quite a bit. I believe that if Judi Moriarty, if we could reasonably find that Judi Moriarty thought that those documents were signed, even though she may be culpable for holding them, that it is reasonable for us to believe that what she thought she was telling Barbara Campbell to file was a document that had been signed while present in the Secretary of State's Office. So Article 3 gives me some real problems. I might have a completely different feeling

about it if we were looking at some misconduct or some article that dealt with whether or not what she caused to have happened or knew had happened on the 21st was a violation. That would be different, but I think we are bootstrapping a long way from anybody's testimony to find that she believed that a declaration, a blank declaration, was going to be filed that didn't contain Tim's signature. That's why I've got so much problem with this.

WITT: This one merely says, at least according to my reading of it, she caused it to be filed on the 29th knowing Tim was not present. There is no allegation in here she knew it was blank or didn't know it was blank, merely that she knew that, she knew candidates were supposed to be present when they were filed, she knew, she caused it to be filed or she ordered it to be filed when she knew that he was not present. I think that is the, that is what is contained in Article 3.

RICHARDSON: In your mind is the inference that she knew that a blank document was going to be generated and filed important or relevant?

WITT: I think it is important and relevant. I don't know if it is necessary.

GAW: Mr. Chairman, I think I understand what you are saying, Mark, and I think that it is important that we draft this so that that is not a turning point. And I don't know that in reading this I'm not seeing it as being a turning point. Because I think the question of whether or not there was a document generated and signed by Tim Moriarty on the 21st, that narrow issue is, there is nothing to take outside

other than the testimony and we have a witness who refused to cooperate with this committee, who came in here and took the Fifth Amendment, and so I would, my reading of this does not get into that issue. Now if I'm reading this correctly, the only issue in this is whether or not there was misconduct involved in holding the filing.

WITT: And causing it to be filed when he was not present.

GAW: And causing it to be filed when he was not present on the 29th. Now if it is going further than that, then I might have some difficulty with it too, because I do not want to get into making a finding that there was or was not a document generated on the 21st. I frankly, don't know how to make a conclusion on that. But if all we are doing is saying that she showed him as being filed on the 29th when in fact he wasn't in there on the 29th but was only in there on the 21st, then I think that is a broader and lesser standard and does not require us to make that other finding. I just throw that out 'cause I understand where you are coming from and I agree with what you are saying. But to get into that, I think that what you are saying is to get into that into that can of worms is just an impossible thing to get out of between the XM document and the other document. I mean that thing is a never ending circle.

RICHARDSON: And it may be that my brain has been muddled by all of the muddled testimony we have heard the last few days and some how I've caught the virus, but if it, I caught it from my good friend O. L. It occurs to me that there is some confusion there and it can be read both

ways and I'm just wondering what it is that we are accusing her of in this article. And that's what I wanted to clarify. Are we accusing her of participating in the generation of a document on the 21st which she knowingly held and then filed eight days later when he wasn't present or are we accusing her of participating in the filing of a completely blank document that ... ?

WITT: All that this states is that a, all this states is that she caused a document, whether signatures were on it or not, to be filed on March 29th knowing Tim Moriarty was not in the State Capitol on March 29th and that the filing requires a candidate to be present in order to file.

RICHARDSON: In my mind there is a major difference when you take a look at the substantial compliance law, the history of it in the State of Missouri as to whether or not the holding of it is an impeachable offense. I think it is poor management and that it is something that she could be criticized or even condemned for. I'm not sure that it is impeachable. However if you believe Barbara Campbell's story that there never was a document and that the Secretary knew there wasn't a document, then it becomes a much more serious offense.

WITT: Representative Richardson, I know that you are basically saying that what this says, while you may agree with it, let me ask you first, do you think the Secretary of State knew or caused the document to be filed on the 29th whether knowing it was blank or not but caused it to be filed on the 29th

knowing that Tim was not in the Capitol?

RICHARDSON: Well, you know, I have some doubts about it, but I don't have much doubt that, in my opinion based on everything I've seen, I don't believe that Judi Moriarty intended for Barbara Campbell to file a blank document on the 29th. I really don't believe that.

WITT: But do you think that she intended her to file a document, blank or not on the 29th knowing Tim was not . . . ?

RICHARDSON: Yes. I don't have any question about that.

WITT: Now your question though is does that give rise though to the level of impeachable offense?

RICHARDSON: That's exactly right. Because I think when you go through this thing and you try to make some sense out of this it is more believable that the intention was to get everything completely done and all in order but just to hold it. And whether it was to hold it to get an answer from the employer, whether it it was to hold it to jockey for a position on the ballot, I don't know. But I think it was, I think there was a completely different standard that you apply to those two. They are two different offenses in my judgment.

WITT: My good friend O. L. appears like he may want to say something.

SHELTON: No, I'm just waiting to vote.

WITT: Okay, is there further discussion? Representative Wible.

WIBLE: My reluctance on this was based more on the fact that I'm not thoroughly convinced that she did direct a document to be filed on the 29th. But in light of your comments about reminding me that we do not have to find beyond a reasonable doubt, we are just having to find if there was good cause to believe that, I think we have met that standard and I think that if in fact the Secretary of State knew that a document was being held and directed that it be filed on a date when the candidate was not present, that that is a pretty serious offense, because of the fact that timing and dating of these declarations of candidacy are such an important part of filing for office. When a candidate appears is something that candidates fight over to the point that they will spend the night in the Capitol to be in a certain place.

WITT: Or two months worth of nights in the Capitol.

WIBLE: Yes, so I don't think that time and date of the candidate's appearance is not important. I think that it is very important and based on the testimony that we heard I, there is probably good cause to . . .

WITT: Is there further discussion? Do I hear a motion? We have a motion to adopt Article 3, is there a second?

GAW: I'll second it.

WITT: Motion to second, call the roll.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: No.

SECRETARY: We have a vote of 4 to 1.

WITT: We do have being prepared the other two articles and they have gone to make sure that they get those. We are going to try to get originals printed out for all of the committee members. The next article that I have brought forth for consideration is Article 4, which deals with the signing of the campaign finance report for another person, her signing Tim's campaign finance report and alleging that that action constitutes misconduct. Now I think on this one she does admit that she did sign his name to it. She denies whether or not she was ordering the declaration of candidacy in order to obtain a signature, but I think that is pretty clear from, I'm convinced beyond a reasonable doubt that she wanted Tim's declaration of candidacy to copy his signature on to this report. The question is does that constitute misconduct by her signing his name to it? Now there is a whole slug of agency law out there where people can sign the name for other people if they have that authorization. In almost all cases someone will sign it and indicate that they have signed

for another person such as signing, me signing Mark Richardson by Gary Witt or by G.W. or some designation that it was not the person themselves that signed that document. The document itself does call for an affirmation that certain facts are true, but that, I guess the real question I have with this is, is this an impeachable offense? I've looked at some different law on whether or not this would constitute forgery or what it would constitute a crime in some manner or another. I think it is questionable and I think there are some crimes that this might fall under. I don't know whether you could get a jury convinced to convict on it, but . . . Representative Gaw.

GAW: Thank you, Mr. Chairman. I think that in my mind this plays an important role in what we have been hearing in the testimony in regard to some other events. The fact that the document was faxed over and the reason why it was faxed over, the question of whether or not there was some intent to somehow copy another signature to deceive somebody I think weighs on my mind somewhat. But the real question here is whether or not this is misconduct in office. At least in my opinion, and even if, you know I looked at that statute, I think it very well could be a crime but I'm not totally convinced of it. I think that if we called the Ethics Commission we probably would get the information that they don't think it's a crime. I think if we ask several people around whether they would do it, you would get a lot of people that would say, "Well you do that all the time." I really think that this is not an appropriate thing for us to consider as an article

for impeachment. I think while there are some substantial questions about the activity around it, in regard to the other events that were transpiring, that this article should not be issued out of this committee. It is not something that if she was doing it, it is not something she was doing in her official capacity as Secretary of State. She was doing it as Tim Moriarty's mother and I don't think that should be something that we should consider in regard to removal from office. So that's my opinion on it. I would vote no on this article, if it were presented.

WITT: Representative Wible.

WIBLE: I agree with Representative Gaw's analysis of that.

WITT: Representative Richardson.

RICHARDSON: Gaw articulated my feelings precisely and much better than I could have.

SHELTON: Well, I disagree with all three of them. She is the Secretary of State. She has a role in this state dealing with election laws. She deals with a lot of documents that require signatures, original signatures, signatures of the persons that's involved in whatever it is, and she is sitting in her state office calling over to the Information Center to get her son's signature to copy on a report when her son is so enthused about running for office, got his butt back home somewhere, when he could be down here taking care of his own business. How long is she going to take care of him? I just think it is beyond the Secretary of State to do something like that

and I think it should be included as an article.

WITT: Well, I know my mother is still taking care of me.

SHELTON: She need to put your butt out.

WITT: She just married me last Saturday so, further discussion? By married me, she was the minister that performed the marriage. I'll make, I'm not from the Bootheel. Is there further discussion on Article 4? My personal feeling on it is that I think Secretary of State Moriarty intended to copy Tim Moriarty's signature on to this document, intended to file it. I am not clear but I believe she probably did have his permission to do so. With agency law I think it is questionable. I don't think she knew whether or not it was right or wrong. Matter of fact, I think she probably thought it was wrong to do this, but from my knowledge of agency law and that, I have trouble bringing forth an article on this because I think there are arguments which could explain it, even though a legal technicality may save her even though she did not know that the legal technicality existed. I believe I would have to vote no on this article.

SHELTON: We don't have to have a roll call on this one.

WITT: It appears that there is no motion. Article 4 dies for no motion. Article 5 is the article dealing with incompetency. Representative Shelton, I believe this is one that you are interested in, please . . .

SHELTON: Thank you very much, Mr. Chairman. This is an article that I recommended

before we went on break and I had an opportunity, I didn't give the committee a rationale, so I went upstairs and made some notes. And I would just like to say that to you, Mr. Chairman, and the members of this committee that we have spent countless hours of testimony concerning the activities of the Secretary of State and her staff during the period of time Judi Moriarty has held that office. In spite of all the contradictions and all the controversy, several facts have become obvious from the thrust of that testimony. It should be obvious as the Chief Election Official of this state, Judi Moriarty should know about filing procedures. Yet by her own admissions she had never seen a candidate work sheet before receiving her son's file faxed from the Information Center. She did not know how basic filing procedures were handled, could not execute basic filing procedures herself, and could not even tell this committee when the primary election was held. It should be apparent that as the head of that office our current Secretary of State whether by an elect or lack of management abilities allowed an organizational structure to which could only be kindly described as loose and if I were using street terminology I would call it the wild thing. We have heard testimony from employees who to this day still have no idea who their supervisor is or even what their duties and responsibilities are to that office. We have heard testimony attesting to questionable employment practices and unchecked sexual harassment. A perfect example is the recent resignation of long time State Librarian Monteria Hightower, who has resigned her position because, in her

words, the State Library had become saturated with political implications. We have heard testimony which confirms that the Secretary of State has hired and in some cases still in her employ, staff members who are not loyal to her and state workers who do not have the credibility or the integrity to serve in the highest Election Office in this state as witnessed by their dishonest statements while under oath before this committee. Many of the employees of the Secretary of State's Office, including the Secretary herself, have not been able to give logical answers to some of the most pertinent questions this committee has asked. Because of this supporting evidence, Mr. Chairman, and my good friends on the committee, I would ask that the committee give strong consideration to this article of impeachment. And I would like to make the motion.

WITT: We have a motion to adopt Article 5. I will second that motion for purposes of discussion proceeding on this. Is there any further discussion on the article? Representative Richardson.

RICHARDSON: With all due respect to my good friend, Representative Shelton, I take issue with this article. I don't think it is appropriate. First of all we have at least not directly attacked this issue through testimony. The probably most pertinent information I guess that we could have or would have would be from the three members of the task force appointed by Mrs. Moriarty to study it weren't brought before us. We didn't hear their testimony. We were given about 4,000 pages of documents

wherein they made some findings that there were some problems. Many of the problems had been corrected before their work was even done. Some of the problems have been corrected since the recommendations came out and one of the most telling, I think, statements that was made was made by the chairman of that committee, who said that he was favorably impressed in an interview with Mrs. Moriarty as to just exactly how much knowledge she did have about the inner workings and also testimony that we heard from various sources that probably 95% of the Secretary of State's Office was running smoothly and that the services were being provided. Although I must admit if we were going to, if our purpose was to give the Secretary of State's Office a report card, I don't even think that it would make the B honor roll, probably would be on academic probation, but I don't think that what we have seen, first of all, I don't think we have explored it enough to make a decision on this article, everything we have seen has sort of been secondary to the election problems and that's only 5 or 6 employees out of 250 and, secondly, I just don't think that what we have seen rises to the level of an impeachable offense.

WITT: What appears to me is that a majority of the people that came here were people that were hired on since Judi Moriarty took office. What seems also clear to me from reviewing the management report and the underlying documents is that the 90% or 95% of the Secretary of State's Office is running properly, is running properly in spite of the Secretary of State rather than because of the

Secretary of State . . .

RICHARDSON: If you're going to give her the blame you've got to give her the credit.

WITT: That is true. I question whether or not we should proceed with an article on incompetency for a couple of reasons. One is incompetency is a very nebulous term. How do you define it? How do you determine what it is? There was a judge recently that was removed from office by the Supreme Court on the basis of incompetency and the argument was made to the Supreme Court that if the people wanted to vote to retain a judge that was incompetent they ought to be able to do that. I have some serious questions about whether or not we have enough evidence to go forward with an article on incompetency and whether or not we could be successful, if that were passed by the entire House to in front of the Supreme Court. Any further discussion? Representative Gaw.

GAW: Thank you, Mr. Chairman. With all due respect to my good friend Representative Shelton, I think that I agree with Representative Richardson in that in this case we really have not explored this issue and I don't think that was part of the direction that we took from the beginning of this. And I feel uncomfortable in judging the Secretary of State's Office and the Secretary of State individually in regard to her competency or her lack thereof. I am disturbed by a lot of the things I've heard here and, but I do believe that it is just inappropriate for us under the circumstances with the amount of evidence that we've heard and things to take a vote on an

article of impeachment on that basis, so I would have to say that I, if this is going to be voted on, I would vote against this article of impeachment. Thank you.

WITT: Representative Wible.

WIBLE: Thank you, Mr. Chairman. I would also vote against it if it came to a vote. I have serious questions about the way that the Secretary of State's Office is being run and particularly the way that some of the elections documents are being handled and the apparent lack of security for documents and things of various nature, but none of our questioning was directed to the competency of the office. When we were doing our investigation, there were many questions that I would have asked witnesses who did appear before us had we been attempting to determine whether we were going to bring an article of impeachment based on incompetency at this time. And although I think that the Secretary of State's Office definitely needs major improvements, I don't think that we have discovered there is incompetency to the level of an impeachable offense.

WITT: Representative Shelton, I did second your motion for purposes of discussion, but I do have to tell you that I probably cannot vote in favor of that article, although I agree with many of the statements that you made.

SHELTON: You are a kind lawyer. Do you want me to conclude?

WITT: Go right ahead.

SHELTON: Even though it appears that the votes are

against me on this one, Mr. Chairman. First of all, when we started these hearings, I don't think our focus was quite clear as to what we were looking at. I think that one of the criteria under the statute is incompetence and as we went through these hearings I saw a lot of that. We aren't here to consider impeachment against Ms. Moriarty's staff, but against herself. You know if I have to measure competence, when the Secretary of State comes before this committee and we ask her a pertinent questions and she says, "I don't know, I don't know, I don't know," I think that is incompetence, and we'll go on and go upstairs and talk about this some more.

WITT: Okay, we have a motion and a second, call the roll.

SECRETARY: Mr. Chairman.

WITT: No.

SECRETARY: Representative Gaw.

GAW: No.

SECRETARY: Representative Wible.

WIBLE: No.

SECRETARY: Representative Shelton.

SHELTON: Yes.

SECRETARY: Representative Richardson.

RICHARDSON: No.

SECRETARY: 4 against and 1 for.

WITT: By your vote you have defeated the motion of the kind

gentleman from the Shelton District. I have here the three additional articles that we discussed earlier. I'm trying to mark them so we can all tell which ones are which. Okay I'm going to pass out what I have marked as Article 1A. And the reason I have marked it as 1A is it tracks Article 1, which we have previously dealt with. This takes out the findings of the jury and deals solely with the findings of ours based on the committee's finding and does track both Tim and Barbara's signatures and stating that that constitutes a crime. I'll give you a minute to look over that 'cause I know it was just handed out. We do not have enough, we just barely got them drafted to copy for us. We'll try and get some additional ones of these copied for everyone else.

WITT: The only real significant change is that we took out all reflections dealing with the findings of the jury and left it based on our findings on the testimony that we have heard. Is there any discussion? Representative Wible.

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WIBLE: I just have a question about whether we want to separate this where this one it requires both directing the signature of Barbara Campbell and the signature of Tim Moriarty. I don't know if there is a need to separate that into two separate articles.

WITT: We do have on misconduct and I have got them here ready to be distributed, them separated on the misconduct issue.

WIBLE: For the crime we probably don't need to, I just wanted to bring that up.

WITT: Further discussion? If not I'll move for the adoption of Article 1A. Is there a second?

GAW: I'll second it.

WITT: Is there further discussion? Call the roll.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: No.

SECRETARY: Representative Richardson.

RICHARDSON: No.

SECRETARY: The vote is 3 to 2.

WITT: By the vote of three to two you have adopted Article 1A. Now I will distribute what I have marked as 2A, which is basically dividing the issue on misconduct. This one deals with the filing of Tim individually, does not deal with the references to Barbara Campbell. This basically tracks the Article 2 and all we have done is divide that, using the factual allegations of the indictment, count 3 of the indictment, and leaving them as to Tim alone. Is there discussion? Representative

Wible.

WIBLE: Yes, Mr. Chairman, this would also need an amendment similar to the amendment of Article 2 adding the language, at line 17 following the word "direct," "or did knowingly allow."

WITT: Okay, our able research analyst, can you do that same change that we made previously to this one? You are asking the exact change made to the language that was made on the previous one.

WIBLE: Two changes on Article 2, because there was the additional language of the other signature so this would only require the change that I just read.

WITT: Okay, would you read the change? It was line 17?

WIBLE: Following the word "direct" insert the words, "or did knowingly allow." And remove the word "that."

WITT: So "did purposely cause and direct or knowingly allow the signature of Tim Moriarty," is how it would read after your amendment, correct?

WIBLE: Yes, that's correct. Let me just see if we . . . All right, that's the extent of the amendment.

WITT: Is there any questions concerning the amendment? I'll second it. Any discussion?

RICHARDSON: This makes 2 and 2A identical except for the fact that one is relating, 2A is relating to Tim and 2 related to Barbara.

WITT: 2 related to both.

GAW: That was on 1, that was not adopted.

WITT: 2 related to both; 2A relates to Tim alone; we have a 2B which will relate to Barbara alone. Is there further discussion? Call the roll.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: Aye.

SECRETARY: The vote is unanimous.

WITT: By your vote you have adopted Article 2A. Yes?

WIBLE: Didn't we adopt the amendment?

WITT: That is correct, we just adopted the amendment by your vote. Now is there a motion on Article 2A as amended, I'm sorry. We have a motion; do we have a second?

WIBLE: Second.

WITT: We have a motion and a second. Is there any discussion? Let's try that roll one more time.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: Aye.

SECRETARY: The vote is unanimous.

WITT: I'm now going to pass out what has been marked as Article 2B. This deals with Barbara alone. I believe we need to make the same change to it that we made to the last one. It should be line 17 again and direct and it should add after that "or did knowingly allow." And remove the word "that." Connie would you like to make that motion?

WIBLE: Did you say "or knowingly allow?"

WITT: "Or did knowingly allow" and take out the word "that."

WIBLE: So moved.

"Inaudible": I second that.

WITT: Any discussion? All those in favor will say "aye."

COMMITTEE: Aye.

WITT: Opposed "no." Ayes have

it. You have adopted the amendment. Now is there any discussion on Article 2B? Do I hear a motion?

"Inaudible": Motion.

WITT: Do I hear a second?

WIBLE: Second.

WITT: We have a motion and a second, is there any discussion? Call the roll.

SECRETARY: Mr. Chairman. (End of Tape #8)

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: Aye.

SECRETARY: The vote is unanimous.

WITT: By your vote you have adopted Article 2B. Are there any other articles that anyone feels need to come forth at this time?

GAW: Mr. Chairman, if I could.

WITT: Proceed.

GAW: I propose that we discuss an additional article that would

incorporate Articles 2A, 2B, and 3 into one article of misconduct, making an allegation that the sum of those allegations of misconduct warrant impeachment. And the reason that I make that suggestion is that, there could, I suppose be some question as to whether each offense or each allegation of misconduct separately warrants impeachment, but the combination of all of those actions together may present a stronger argument for that. So I throw it out for consideration. I suppose another possibility would be to combine Article 2 and 3, but I'm just suggesting we consider whether or not that should be adopted.

WITT: Is there any further discussion of that or any thoughts on that?

SHELTON: It doesn't make sense to me.

WITT: Okay, Representative Wible.

WIBLE: Do we have language?

WITT: No, we do not. So that basically takes, would it be the same to combine two and three?

GAW: I suppose it depends whether you join 2A and 2B in the disjunctive or not. And that would be the only distinction I could see, because if you put an "and" in between the two you are really just doing Article 2, so that would be the only . . .

WITT: Okay, it would be 2A, 2B and 3 in the disjunctive. How long would it take you to put that together? Is it the committee's feeling that we should have him go forth and draft that quickly for us and we can stand in recess for a short

break while he does that? Any objection to that? The other thing that I would ask of the committee. We've done some of these for clarity sake so we understood what we were talking about is 2A, 2B, 1A, and also didn't adopt some. I'd ask permission of the committee for the staff when we are putting these together in the committee report to renumber them appropriately to be clear and bring forth, those that passed as Article 1, Article 2, Article 3, Article 4. Is there any objection to that?

RICHARDSON: While they are renumbering, they will insert the amendments that we made and get clean copies of all of them?

WITT: Yes. Okay, go draft that. In the meantime while he is drafting that we are going to take a ten minute break and if he isn't back we will have cup of coffee and wait on him. Ten minute break.

• RECESS •

WITT: We have distributed Article 6. They are finishing up putting the amendments into the other one so we can get a committee report out and ready this evening. This one is the one that combines all of the allegations of misconduct into one allegation that all of them combined constitute misconduct. Brent, you did the drafting on this, I believe. Why don't you go through and just explain it to the committee, if you can.

BRENT BUTLER: Basically, this Article combines Articles 3,

4, and 5, the substance of them, the facts situation and Article 3 is paren 1, Article 4 is paren 2, Article 5 is paren 3. The final paragraph is basically a compilation of the statement that all of these collectively can constitute acts which are misconduct. You might want to read that paragraph carefully because that's the draftsmanship.

WITT: The Article 6 that has been distributed. Has everyone had a chance to look at it? Is there anyone that wants more time? Do I hear a motion?

GAW: So moved.

SHELTON: Second.

WITT: We have a motion and a second to adopt Article 6 as drafted. Is there any discussion? Call the roll.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: No.

SECRETARY: We have 4 for and 1 against.

WITT: By a vote of 4 to 1 you have adopted Article 6. Is there anything further as far as taking up of additional articles at this time? Seeing none, is there anything further that needs to be taken up at this time?

SHELTON: Mr. Chairman, I would just like to congratulate you for doing an outstanding job with this committee and just wish you well and a happy marriage.

WITT: Thank you, Representative Shelton.

RICHARDSON: Do we need to adopt the preamble?

WITT: We might as well, to make sure that it is clean. Has everyone had a chance to review the preamble? Is there any discussion regarding the preamble? Okay. Is there anything further regarding the preamble?

GAW: Could I ask if this language was drafted from another draft of an impeachment preamble or was it just roughed out completely? I assumed that, but I thought I would make sure.

WITT: Patterned after '68, but of course it is different allegations and there are some corrections, but that is where it is patterned from. Anything further. Do I hear a motion for adoption?

WITT: We have a motion and a second. Move and seconded, any discussion? Call the roll.

SECRETARY: Mr. Chairman.

WITT: Aye.

SECRETARY: Representative Gaw.

GAW: Aye.

SECRETARY: Representative Wible.

WIBLE: Aye.

SECRETARY: Representative Shelton.

SHELTON: Aye.

SECRETARY: Representative Richardson.

RICHARDSON: Aye.

SECRETARY: Unanimous vote.

WITT: By your vote you have adopted the preamble. Is there anything further? Representative Richardson.

RICHARDSON: Mr. Chairman, we had talked previously about the two issues of mismanagement and abuses or excesses regarding the travel expenses and telephone expenses. I think probably are both on the one article of incompetency, probably resolves the concern I had on that one issue but, with regard to the other issue, I would like to move that the committee take formal action in making a finding that the investigations that we have undertaken failed to show any acts or omission or conduct which warrants impeachment. And I know it is sort of a negative motion but the reason I make it is because we have had no testimony or documentation presented to us at all and I think it is probably important that we obtain some sort of closure on that issue, since it was one that we opened the door on when we first started the committee.

WITT: If I could beg leave to make a substitute motion, I

know we don't have a second for yours yet, but to make it in the form of a positive motion that we cease any investigation into the misappropriation of funds or misuse of state property and declare that at this time completed.

RICHARDSON: I will consent to that.

WITT: Any discussion on the substitute motion? Is there a second for the substitute motion?

GAW: Can I inquire. I understand the first part of the motion, that we are not going to do any more investigation and we are closing that. I'm not sure if I understand the last part of it. You say that it is completed. What do you mean by that?

WITT: It is completed, we are not going to proceed further with it. I'm not making it an affirmative finding one way or the other as to any, because we have not had testimony.

GAW: I understand.

RICHARDSON: Does your substitute motion conclude that we have satisfied ourselves through the investigations that have been done, that there is no reason to proceed with it further?

WITT: It did not and I don't know if we want to make that affirmative finding to that level, because we have not had the testimony in front of us. We have had an investigator looking into it, but I don't know if I want to go on record saying that there isn't anything there. We have not, based on the limited information that we have, found anything, but I don't necessarily want to go on record saying

there is nothing there, because there could be other investigations ongoing either on a State or Federal level and I would rather us just say that we are concluding our investigation into those issues at this time and are not making any recommendation one way or the other to the House on impeachment on those issues. Is there a second to that motion?

GAW: I second it.

WITT: Any discussion? All those in favor will say "aye."

COMMITTEE: Aye.

WITT: Opposed "no." Ayes have it. You have adopted the motion. If there is nothing further at this time, I do want to thank our staff which have done an outstanding job, have worked long, long hours, have really done well at getting us information quickly, at drafting it quickly, and I would also like to thank the members of this committee. It has been tough. There's nothing easy that we have done since we started this. We worked long hours. We've studied a lot of documents and probably need new glasses because of it, but I want to thank everybody here. If there is nothing further we will stand adjourned and send our report to the floor of the House.

• ADJOURNED •

- End of Transcript -

APPENDIX

(Unnumbered pages are intentionally blank.)

PAGE

I - 1	I. Governor's Proclamation and House Resolutions
II - 7	II. Documents Requested by the Committee
III - 9	III. Copies of Selected Documents
IV - 56	IV. Draft Articles of Impeachment Considered by the Committee
V - 76	V. The Committee Report, Articles of Impeachment

I. GOVERNOR'S PROCLAMATION AND HOUSE RESOLUTIONS

PAGE

I - 2 Governor's Proclamation (September 14, 1994)

I - 3 House Resolution No. 3 (September 22, 1994)

I - 5 House Resolution No. 4, Rules of Procedure (September 22, 1994)

PROCLAMATION

On the extraordinary occasion that exists in the State of Missouri:

- I, MEL CARNAHAN, GOVERNOR OF THE STATE OF MISSOURI, by this proclamation, and under the authority granted in Article IV, Section 9 of the Missouri Constitution, convene the Eighty-seventh General Assembly of the State of Missouri in the First Extra Session of the Second Regular Session; and
- I HEREBY CALL upon the Senators and Representatives of said General Assembly to meet in the State Capitol in the City of Jefferson at 12:00 p.m., Thursday, September 22, 1994; and
- I HEREBY STATE, that the action of said General Assembly is deemed necessary concerning the matter specifically designated and limited hereinafter as follows:
1. To consider, as authorized and provided for by Article VII, Sections 1 and 2, of the Constitution of the State of Missouri, whether or not the House of Representatives shall be satisfied that there is good cause to impeach Judith K. Moriarty, Secretary of State of the State of Missouri, for the reasons delineated by Article VII, Section 1 of the Missouri Constitution, and if so, pursuant to Chapter 106 RSMo, to cause Articles of Impeachment to be made out in due form against Judith K. Moriarty, Secretary of State of the State of Missouri. If said Articles of Impeachment are made out in due form against Judith K. Moriarty, Secretary of State of the State of Missouri, the House of Representatives shall cause said Articles to be made out to transmit the same to the Supreme Court and to immediately elect managers to prosecute such impeachment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 14th day of September, 1994.



Mel Carnahan
GOVERNOR

ATTEST:

Judith K. Moriarty
SECRETARY OF STATE

as adopted

HOUSE RESOLUTION NO. 3

WHEREAS, it has come to the attention of the House of Representatives of the Eighty-seventh General Assembly of the State of Missouri, that Judith K. Moriarty, Secretary of State of the State of Missouri, is alleged to have committed certain acts and omissions which, if true, would constitute grounds for impeachment under the law of Missouri:

NOW, THEREFORE, BE IT RESOLVED that it is the sense of the House that in light of our sworn duty there should be an investigation of these allegations as to their truth, and that if the House shall be satisfied that there be good cause to impeach said secretary of state, that articles of impeachment shall be made out in due form against her in accordance with law; and

BE IT FURTHER RESOLVED that the Speaker of the House appoint a special committee consisting of five members of the House, not more than three members being from the same political party, to investigate the allegations and, if deemed necessary, to draft articles of impeachment against said Judith K. Moriarty and report them back to the House; and

BE IT FURTHER RESOLVED that the House may adopt rules of procedure for the hearings and investigations of the special committee and that the Rules of the House of the Eighty-seventh General Assembly adopted on January 7, 1993, shall apply to the special committee as such rules are appropriate and not in conflict with the rules adopted for the hearings and investigations; and

BE IT FURTHER RESOLVED that the special committee shall have all powers and duties prescribed in the rules of procedure adopted pursuant to this resolution; and

BE IT FURTHER RESOLVED that the special committee shall meet at such times and places as the chair deems necessary to conduct its duties expressed in this resolution; and

BE IT FURTHER RESOLVED that the members of the special committee shall be reimbursed for their actual and necessary expenses connected with the investigation from the contingent fund of the House. Witness fees for any witness subpoenaed to appear as a part of this investigation shall be paid from the contingent fund of the House. The Speaker shall appoint messengers to serve necessary subpoenas and any fees for the service of such subpoenas shall be paid from the contingent fund of the House at the rate prescribed by section 491.280, RSMo; and

BE IT FURTHER RESOLVED that the Committee on Legislative Research staff and the House Research staff shall provide professional staff support to the special committee. The special committee may, if it deems it necessary, hire special counsel, a court reporter, and such other personnel as it deems advisable to assist its investigation. The cost of such personnel shall be paid from the House contingent fund; and

BE IT FURTHER RESOLVED that as a special order of business, the House shall meet in this chamber on a date set by the Speaker, upon completion of the duties of the special five member committee appointed herein, to consider the report of the committee; and

BE IT FURTHER RESOLVED that the Speaker of the House shall designate two members of the special committee, one from the majority party of the House and one from the minority party of the House, who shall, present the results of the investigation of the special committee to the House; and

BE IT FURTHER RESOLVED that if the House is satisfied that there is good cause to impeach Judith K. Moriarty, the articles of impeachment drafted by the special committee be immediately considered and approved, amended or rejected by the House; and

BE IT FURTHER RESOLVED that the articles of impeachment approved by the House be delivered by the Chief Clerk of the House to the Supreme Court. The speaker shall appoint two managers, one from each of the two major political parties represented in the house, to prosecute the impeachment. The counsel for the special committee shall, under the direction of the managers, present and prosecute the articles voted by the house before the Supreme Court to final conclusion; and

BE IT FURTHER RESOLVED by the House of Representatives that all members of the House of Representatives shall be reimbursed for their per diem expenses as provided by law; and

BE IT FURTHER RESOLVED that the expenses payable under this resolution shall not be paid to any member who qualifies for any other type of reimbursement; and

BE IT FURTHER RESOLVED that, upon approval of the Speaker of the House, the expenses of the House members be paid from the contingent fund of the House.

as adopted

HOUSE RESOLUTION NO. 4

WHEREAS, the House of Representatives of the Eighty-seventh General Assembly, through House Resolution No. 3 approved on September 22, 1994, established a special committee to investigate and conduct hearings on allegations of certain acts and omissions of Judith K. Moriarty, Secretary of State, which, if true, would constitute grounds for impeachment under the law of Missouri; and

WHEREAS, in such House Resolution No. 3, the House reserved to itself the power to adopt rules of procedure governing such investigations and hearings:

NOW, THEREFORE, BE IT RESOLVED that the following rules of procedure are adopted to govern the investigations and hearings held under authority of House Resolution No. 3:

RULE 1

The hearing upon such issue shall be commenced at such time and place as determined by the chair. Recesses and adjournments shall be determined by the chair.

RULE 2

The hearings shall be open to the public and press. The committee shall prepare a transcript of the hearings. Cameras or other audio or visual recording devices and ancillary lighting and electrical equipment shall be allowed at such hearings and to the extent and in the manner determined by the chair.

RULE 3

Only members of the special committee and the committee's counsel may question witnesses. All questions posed to witnesses shall be relevant to the investigation. The chair shall rule on all questions of relevancy.

RULE 4

Only persons called as witnesses by the special committee may testify as a witness. Any other person desiring to testify as a witness may petition the committee for permission to testify by presenting a written statement of the substance of the proposed testimony to the chair prior to the testimony. The chair shall have discretion of whether to allow such person to testify as a witness, but all members of the committee may examine the written statement presented to the chair by the person desiring to testify as a witness.

RULE 5

All witnesses shall testify under the following oath:

"You do solemnly swear (or affirm) that the testimony you shall give in the hearing now pending before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God.". The oath shall be administered by the chair.

RULE 6

Formal rules of evidence shall not apply to the hearings. The committee may compel the attendance of witnesses and the production of any paper or document, enforce obedience of its orders, preserve order, and punish in a summary way, contempt of and disobedience to its authority. The sergeant-at-arms of the House, under direction of the committee, shall execute the lawful orders of the committee, and may employ such aid and assistance as may be necessary to carry out and enforce such orders.

RULE 7

Subpoenas for the appearance of witnesses and subpoenas duces tecum for the production of any paper or document shall be issued by the Speaker of the House, upon request of the committee, in the manner prescribed by law. A subpoena or subpoena duces tecum may be enforced by statutory or common law, or by applying to a judge of the circuit court of Cole County for an order to show cause why the subpoena or subpoena duces tecum should not be enforced.

RULE 8

The chair shall preside over the hearings, and shall rule on all questions regarding the admission or rejection of testimony, decorum, and procedure in accordance with these rules. Such rulings shall be final, unless overruled by a vote of the majority of members present. The chair may request assistance from the Capitol Police or from the Missouri Highway Patrol to maintain order at the hearings and in the hallways and spaces adjoining the hearing area. The chair shall rule on any appropriate matter not covered by these rules.

RULE 9

No person who is to testify as a witness before the special committee shall be admitted to the room in which the hearing is being conducted until such person is called by the committee for such person's testimony.

II. DOCUMENTS REQUESTED BY THE COMMITTEE

From the Office of Secretary of State (pursuant to a subpoena duces tecum)

- All paperwork on the filing of Timothy Moriarty
- The originals of all Declarations of Candidacy for State Representative for 1994
- Organizational chart for the Office
- Names and positions of employees hired since Judith Moriarty was sworn in as Secretary of State
- Computer records for candidate filings on March 21 and March 29, 1994
- Copies of the lists of candidates posted outside the door of the Office on March 21-29

From the Cole County Prosecuting Attorney

- Trial exhibits in State v. Moriarty
- Transcript of Cole County Grand Jury in re Judith K. Moriarty (pursuant to subpoena duces tecum)

From the Department of Labor and Industrial Relations

- Employment records of Timothy Moriarty

From the State Ethics Commission

- All filings of Timothy Moriarty

From the Office of Administration

- Telephone records of the Secretary of State for 1993-94
- List of credit cards issued to Secretary of State personnel
- Charges made on those credit cards
- Charges made to mobile phones by Secretary of State personnel
- Airplane records for Secretary of State personnel
- Expense account records of Secretary of State personnel

From the Office of Attorney General (pursuant to subpoena duces tecum)

- Investigative files on Judith Moriarty and Timothy Moriarty

Missouri Democratic State Committee

- Filing fee receipt of Tim Moriarty

David Edwards, Attorney

- Polygraph test results for Barbara Campbell

III. COPIES OF SELECTED DOCUMENTS

PAGE

- III- 10 1. Declaration of Candidacy for Timothy Moriarty dated March 29, 1994.
- III - 11 2. Candidate Worksheet for Timothy Moriarty.
- III - 12 3. Official Receipt for Filing Fee received from Timothy Moriarty dated March 21, 1994.
- III - 13 4. Declaration of Candidacy for Timothy Moriarty with the
"RECORD NOT FOUND0: XM" date.
- III - 14 5. Memorandum from Sandra Moore to Tim Moriarty, date March 28, 1994, saying
that he could run for office.
- III - 15 6. Missouri Ethics Commission Statement of Exemption or Rejection for
Tim Moriarty, dated May 9, 1994.
- III - 16 7. Lists of Telephone Calls by Tim Moriarty and Judith Moriarty assembled by
Richard Lee, Cole County Prosecutor's Office (4 pages).
- III - 20 8. Memo from Barbara Campbell to Secretary Moriarty, dated June 14, 1994.
- III - 21 9. Letter from David Edwards to Randy Sparks, dated June 15, 1994 (2 pages).
- III - 23 10. Notes on Interviews of Judith Moriarty on June 16 and 20, 1994, and of Timothy
Moriarty on June 16, 1994, by Richard Lee, Cole County Prosecutor's Office (21 pages).
- III - 43 11. Statement to the Media about His Withdrawal of Candidacy by Tim Moriarty,
June 22, 1994.
- III - 44 12. Indictment in State vs. Moriarty, August 23, 1994 (5 pages).
- III - 49 13. Jury instructions 5 and 6 on count I of the indictment and jury instruction 10 on
count III (5 pages).
- III - 54 14. Verdicts in State vs. Moriarty, September 10, 1994, on counts I and III (2 pages).

Declaration of candidate for nomination



To the Honorable **JUDITH K. MORIARTY**, Secretary of State:

APPENDIX III - 10

I, **Timothy John Moriarty**, a resident and registered voter of **5th Princinct , Van Buren Township** of the county of **Jackson** and the State of Missouri, do announce myself a candidate for the office of **State Representative, District 56** on the **Democratic** party ticket, to be voted for at the primary election to be held on the 2nd day of August, 1994 and I further declare that if nominated and elected to such office I will qualify. I further declare that I have no outstanding campaign disclosure reports due from any prior elections, and further declare that I have received notice of my obligation to file a personal financial interest statement.

Name: **Timothy J. "Tim" Moriarty**
Residence Address: **Rural Route #4, V-62**
City: **Lake Lotawana, MO 64086**

Affidavit

State of Missouri

SS.

County of Cole

I hearby swear or affirm that the information contained in the foregoing declaration of candidacy is, to the best of my knowledge, true.

signature of candidate

Subscribed and sworn before me this **twenty ninth** day of **March, 1994** at 1:19PM

SEAL

signature of officer accepting declaration

CANDIDATE WORK SHEET - 1994 PRIMARY ELECTION

You *must* have a receipt from the political party on whose ticket you plan to file showing you have paid the appropriate filing fee.

U.S. Senate	\$200	U.S. Congress	\$100
State Auditor	200	State Representative	50
State Senate	100	Partisan Circuit Judge	100

Please print:

- Candidate's Name Timothy John Moriarty
- Print your name exactly as you want it printed on ballot Timothy J. (Tim) Moriarty
- Where are you registered to vote?
 - Ward _____
 - Precinct 5
 - Township Van Buren
 - County JACKSON
- What office will you be filing for? State Rep.
District (if applicable) 56
- What political party ballot will you be filing on?
Democrat X
Republican _____
Libertarian _____
- Your address & street number Rt. 4 11-62
city & zip code Lake Letawana MO 64086
- Identification Item to be used (driver's license, state ID, etc) MO. D.L.
Number on item used 492-86-4425

1994 MAR 29 P 1:19
Secy. of State

FILED

Missouri Democratic State Committee
Post Office Box 719 • Jefferson City, Missouri 65102 • 314/636-5241

OFFICIAL RECEIPT

DATE 3/21 19 94Received From TIMOTHY JOHN MORIARTYAddress RT 4 V-62LAKE LOTAWANA, MO. 64086Telephone (816) 578-4372 or () _____For STATE REP. DIST #56

(If payment is for a filing fee, you MUST note the office and district)

AMOUNT: \$ 50.00 Paid by ☒ CASH ☐ CHECK ☐ MONEY ORDERReceived by Barbara Campbell SOS Staff

For the Missouri Democratic State Committee



Declaration of candidate for nomination

the Honorable JUDITH K. MORIARTY, Secretary of State:

Timothy John Moriarty, a resident and registered voter of 5 Princinct , Van ren Township of the county of Jackson and the State of Missouri, do announce self a candidate for the office of State Representative, District 56 on the mocratic party ticket, to be voted for at the primary election to be held the 2nd day of August, 1994 and I further declare that if nominated and ected to such office I will qualify. I further declare that I have no tstanding campaign disclosure reports due from any prior elections, and rther declare that I have received notice of my obligation to file a rsonal financial interest statement.

Name: Timothy J. (Tim) Moriarty
Residence Address: Rt. 4 V-62
City: Lake Lotawana, Missouri 64086

Affidavit

ate of Missouri

SS.

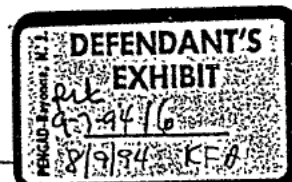
unty of Cole

hearby swear or affirm that the information contained in the foregoing clARATION of candidacy is, to the best of my knowledge, true.

Timothy J. (Tim) Moriarty
signature of candidate

bscribed and sworn before me this day of RECORD NOT FOUND0, : XM at

SEAL



signature of officer accepting declaration

3315 W. Truman Blvd.
P.O. Box 504
Jefferson City, MO 65102
314-751-4091
FAX 314-751-4135

Relay Missouri
1-800-735-2966 (TDD)
1-800-735-2466 (Voice)

Missouri Department of Labor and Industrial Relations

Sandra M. Moore, Director

Mel Carnahan
Governor

MEMORANDUM

TO: Tim Moriarty
Prevailing Wage Inspector

FROM: Sandra Moore
Director, DOLIR

SUBJECT: Candidacy for State Representative

DATE: March 28, 1994

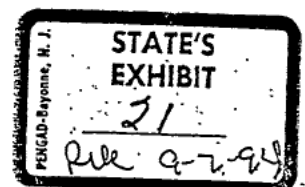
We have researched the statutes of the state in reference to whether an employee of the state may at the same time be a candidate for office. (Section 115.637 RSMo)

Based on that research, clearly you do have the right to run, and an employer may not interfere with your constitutional rights regarding this issue.

In order to insure that the state's business is done in an orderly and timely fashion, please notify Colleen Baker or Jim Boeckman in advance when leave is being taken for campaign purposes. For time distribution purposes, you will need to provide the Division a leave slip designating such also.

We wish you the best of luck in your endeavor. If you have any additional questions, please feel free to contact my office.

c: Colleen Baker





MISSOURI ETHICS COMMISSION

STATEMENT OF EXEMPTION OR REJECTION

1. TYPE OF STATEMENT

☒ EXEMPTION
complete 1 through 13☐ REJECTION
complete 1 through 12 and 14

2. STATEMENT DATE

3-31-94

OFFICE USE ONLY

(due) 5-10-94

CANDIDATE'S NAME (AS IT APPEARS ON BALLOT)

Timothy J. (Tim) Moriarty

4. CANDIDATE'S ADDRESS

V. 62 Rt 4
Lake Lotawana, Mo. 64086

5. CANDIDATE'S PHONE NUMBER

Home: 816-578-4372

Work: same

ELECTION DATE

8-2-94

7. TYPE OF ELECTION

☒ PRIMARY☐ GENERAL☐ SPECIAL

8. OFFICE SOUGHT

State Representative

9. NAME OF POLITICAL SUBDIVISION

District #56

1. DO YOU HAVE AN EXISTING
COMMITTEE FROM A PRIOR
ELECTION CAMPAIGN?YES ☐NO ☒

11. IF YES, NAME OF EXISTING COMMITTEE

12. POLITICAL PARTY

Democrat

3. STATEMENT OF REPORTING EXEMPTION

I affirm that in this election, neither I nor any committee or person with my knowledge or consent will, in support of my candidacy:

- Receive more than one thousand dollars in total contributions;
- Make total expenditures of more than one thousand dollars;
- Receive a total of more than two hundred fifty dollars from any single contributor.

I further state that I understand:

- That I must keep records of contributions and expenditures from the time I first receive those contributions or make those expenditures; and
- That filing this Reporting Exemption Statement does not exempt me from any other provisions of Chapter 130 RSMo.

MISSOURI ETHICS
COMMISSION

MAY 10 1994



CANDIDATE'S SIGNATURE

Tim Moriarty

DATE

May 9, 1994

4. STATEMENT OF EXEMPTION REJECTION

I hereby reject my previously filed Reporting Exemption Statement and enclose a Statement of Organization for the committee formed on my behalf and any other statements and reports which would have been required if I had not filed an Exemption Statement.

CANDIDATE'S SIGNATURE

DATE OF PREVIOUS EXEMPTION

TODAY'S DATE

Telephone Records Judith Moriarty Work

Telephone calls on the 29th from Secretary of State's Officer Mrs. Moriarty's unlisted private line 751-2567

Date	Time	Place	Length of Call	No.
3-29-94	1:28	Lk Lotawana	.28sec	816-578
3-29-94	4:33	Lk Lotawana	9:55 min	816-578

Telephone calls on the 28 and 29th from Secretary of State's Officer from extention in ron Casteel's office 751-4951

Date	Time	Place	Length of Call	No.
3-28-94	5:13	Lk. Lotawana	.35sec	816-578
3-29-94	6:44	Lk. Lotawana	14.59 min	816-578

Tim Moriarty's home number is 816-578-4372 Lake Lotawana

Telephone Records Tim Moriarty

Tim Moriarty State Credit Card

Date	Time	Place	Length of Call	No.
3-23-94	10:58	Sec. State	6 sec	751-2379
3-23-94	11:00	Labor Stand	1:30 min	751-3403
3-23-94	11:23	Sec. State	1:24 min	751-2379
3-29-94	9:09	Labor Stand	3:06 min	751-3403

Colleen Baker remembers Tim calling to asked what they had found out on the 23rd

Tim Moriarty Home Telephone Records

Date	Time	Place	Length of Call	No.
3-21-94	12:06	Sedalia	10 min	816-826-2226
3-29-94	9:03	Sec. State	2 min	751-2379
3-29-94	9:27	Sedalia	1 min	816-826-1547
3-29-94	12:49	Sec. State	1 min	751-2379
3-29-94	3:24	Sec. State	3 min	751-2379
3-29-94	5:53	Sec. State	3 min	751-1430

Tim Moriarty made a telephone call from his house at 12:06 pm on March 21, 1994

Judy's office message book shows call on 3-29-94 at 9:00 am which also shows on Tim's bill

Telephone Records

Tim Moriarty's Long distance calls from home number 816-578-4372

Date	Time	Location	Duration	Number
5-6-94	3:25pm	Sec State	4 mins.	751-2379
5-8-94	9:36pm	J.M. Sedalia	4 mins.	816-826-2226
5-9-94	11:58am	J.M. Sedalia	2 mins.	816-826-2226
5-9-94	3:59pm	J.M. Sedalia	12 mins.	816-826-2226
5-10-94	10:11pm	J.M. Sedalia	8 mins.	816-826-2226
5-12-94	8:57am	J.M. Sedalia	15 mins.	816-826-2226
5-12-94	10:17am	J.M. Sedalia	2 mins.	816-826-2226
5-14-94	10:56pm	J.M. Sedalia	7 mins.	816-826-2226
5-17-94	11:47am	Sec. State	3 mins.	751-1430

751-2379 main line into Secretary of State's Office

751-1430 when called was answered by Leigh Ann Toalson, Jim Kolb's secretary

TELEPHONE RECORDS

Judith Moriarty's private line 751-2567

Date	Time	Location	Duration	Number
5-10-94	3:23	Lake Lotawana	25 sec	816-578
5-10-94	4:26	Lake Lotawana	29 sec	816-578
5-17-94	3:01	Lake Lotawana	47 sec	816-578
5-17-94	3:34	Lake Lotawana	1:05 min	816-578
5-27-94	11:57	Lake Lotawana	9:28 min	816-578
5-27-94	3:00	Lake Lotawana	8:58 min	816-578

Calls placed from 751-2396 extension in the Secretary of States Office to Marie Gladbach's desk but is on a trunk into office

Date	Time	Location	Duration	Number
5-11-94	12:46	Lake Lotawana	16:46 min	816-578
5-16-94	1:35	Lake Lotawana	45 sec	816-578

June 14, 1994

To: Secretary Moriarty

Since I have not been extended the courtesy of even a telephone call from you, I wanted to inform you that it is very important that no one from this office, including Jim Kolb or Joe Carroll, make any negative or damaging comments about me or Charles. If this happens, either publicly or informally, I will be forced to reveal the details of the improper filing of your son for candidacy for elective office.

Barbara L Campbell



DAVID G. EDWARDS

ATTORNEY AT LAW
223 E. CAPITOL AVENUE
JEFFERSON CITY, MISSOURI
TELEPHONE: 314/634-8883

LICENSED TO PRACTICE IN
MISSOURI, ILLINOIS, &
THE DISTRICT OF COLUMBIA

MAILING ADDRESS:
POST OFFICE DRAWER 1806
JEFFERSON CITY, MISSOURI 65102-1806

VIA FAX
June 15, 1994

Randy K. Sparks, Counsel
Joseph A. Carroll, Deputy Secretary
OFFICE OF THE SECRETARY OF STATE
208 State Capitol
Jefferson City, Missouri 65102
Ph. 751-2379/ Fax 526-4903

Gentlemen:

I am writing on behalf of my clients Dr. Charles Campbell and Barbara Campbell with regard to the disposition of records pertinent to Dr. Campbell's resignation from the Office of the Secretary of State.

I understand from talking with Dr. and Mrs. Campbell that they gave Mr. Sparks a writing together with Dr. Campbell's resignation yesterday in which he referred to filings for the 56th district house seat by Tim Moriarty, son of Secretary of State Judith Moriarty, with the elections division of your office. I understand further that, in fact, these filings were made not by Tim Moriarty but signed in his name and filed by his mother Secretary of State Judy Moriarty on the final filing date so as not to miss the filing deadline. I also understand that Ms. Moriarty also signed and filed Mr. Moriarty's ethics report. Lastly, I understand that on his leaving, Dr. Campbell discussed these filings with Mr. Sparks and that he knew of the facts and circumstances of their filing as outlined herein. I understand that Mr. Carroll also knew of the circumstances surrounding the filing of Tim Moriarty's reports on his behalf by Ms. Moriarty.

I am writing today to caution you and others not to attempt to destroy these documents as originally filed or attempt in any way to replace them with documents filed post-facto by Ms. Moriarty's son or others. I would also caution you and your fellow employees to not destroy or otherwise tamper with electronic records or other documents pertaining to this filing. Of course I do not presume to counsel you or others in your office in any way when I note that tampering with physical evidence or otherwise tampering with a public record is a crime in this state.

Lastly, please accept this letter as my request pursuant to Chapter 610 for true copies of the filings with the elections division signed and ordered filed by Ms. Moriarty on her son's behalf. I will pay the reasonable costs of copying. The original of this letter follows by United States Mail.



VIA FAX

Randy K. Sparks, Counsel

Joseph A. Carroll, Deputy Secretary

OFFICE OF THE SECRETARY OF STATE

June 15, 1994

page two

By copy of this letter, I am informing the Office of the Attorney General and the Office of the Cole County Prosecuting Attorney of the fact of this request.

Sincerely yours,

David G. Edwards

DGE/ws

cc: Hon. Jay Nixon, Missouri Attorney General

Hon. Richard Callahan, Esq, Cole County Prosecuting Attorney

INTERVIEW OF JUDY MORIARTY

On June 16, 1994, at approximately 11:30 a.m., I interviewed Judy Moriarty at her office in the Capital. Present during the interview with Mrs. Moriarty was Mike Gilligan, investigator with the Cole County Prosecuting Attorney's Office, myself and Roger Brown attorney for Mrs. Moriarty

I first asked Ms. Moriarty when she had become aware of Tim Moriarty's interest in running for the state representative seat. Ms. Moriarty stated that Tim had discussed filing for office back in the summer of 1993. At that time, Tim was deciding whether he was going to run for the representative seat in Sedalia, Pettis County, or for the district seat in the Lake Lotawana area which is District 56. Mrs. Moriarty stated that her son, during the early summer around June of 1993, moved to the Lake Lotawana area and had decided to possibly to run for the state representative seat in District 56. Mrs. Moriarty stated Tim had discussed it further with her after Christmas and the first of the year with her and she believed at the time he had made his decision to file for the State Representative race in District 56.

I asked Ms. Moriarty if she knew when Tim had filed his candidacy paperwork to file for the seat, and she stated she knew he was going to file for office on March 21, 1994. When Tim had came into the office on that day to file she had asked him if he had discussed the filing for the seat with his employer, Labor Standards. Mrs. Moriarty stated her concern was Tim get approval

from his employer prior to his filing. Mrs. Moriarty stated when she had talked with Tim, he had not discussed the matter with his employer and he didn't know if he would be able to retain his job with Labor Standards while running for the House seat. Mrs. Moriarty stated this was a concern since this was his only source of income. Mrs. Moriarty stated that she knew at the time Tim had not received the approval of his employer for his filing for candidacy for the house seat. Mrs. Moriarty later said that Tim had felt like he had filed on that day in question. Mrs. Moriarty then said that Tim thought he had completed the paperwork and she also thought that it had been completed on the 21st. I then asked her if she had looked at the paperwork on the 21st, and she stated that she had not seen the paperwork. I asked Ms. Moriarty why the paperwork hadn't been stamped, and the declaration for candidacy for nomination had not been dated and signed on the 21st. Mrs. Moriarty did not know why this had occurred. I then asked her if one of the reasons why he didn't sign the application was he was waiting for a response from his employer and the Governor's office, and she stated yes that was one of the reasons. She further stated, however, that Tim and her felt that Tim was a candidate at the time and that he had filed the proper paperwork. I then asked her if that were the case then why was the paperwork not dated and filed and posted on the 21st, on the date in which he filed. She could not answer that. I then asked her if that was the normal method of filing for an office with the Secretary of State, and she stated that it was not. I then asked Ms. Moriarty if she had directed anyone not to file the paperwork on the 21st, on the date

in which Timothy Moriarty appeared in the office, and she stated that she had not. I then asked Ms. Moriarty if she had directed anyone on the 29th day of March, 1994, to file the paperwork without the signature of Timothy Moriarty on it, and she stated that she did not. I then asked Ms. Moriarty if she had signed the declaration of candidacy for nomination for Timothy Moriarty, and she stated that she had not.

Roger Brown, Ms. Moriarty's attorney, then brought out copies of the declaration of candidacy and candidate worksheet and the official receipt copy for Timothy Moriarty's candidacy for state representative. I then looked at the documentation presented by Mr. Brown and then showed them to Ms. Moriarty. I first drew Ms. Moriarty's attention to the document of official receipt on March 21, 1994. I asked Ms. Moriarty if she was aware which date Timothy had come in to file, and she stated that it was on March 21, 1994. I then asked Ms. Moriarty if on March 29, 1994, if Timothy Moriarty had come into her office at 1:19 p.m. and signed those documents, and she stated that she did not think he had that she did not think he was there on the 29th.

Ms. Moriarty then went back to the issue of Tim talking to his supervisors and seeking approval from his supervisors and the Governor's office. She did not know when approval was finally given to Tim, but she knows that he did receive approval and was able to maintain his job while he ran for the office of State Representative from the 56 District. I asked Ms. Moriarty if she had talked or discussed this matter with anyone from the Division of Labor Standards or the Governor's office, and she stated that

she had not.

I then asked Ms. Moriarty when she became aware of the problem with the lack of the signature on the candidacy papers for Timothy Moriarty. Ms. Moriarty stated that approximately four to five weeks after the filing deadline, which was approximately the latter part of April, that she had requested a copy of all the paperwork in the campaign file. Ms. Moriarty stated that she requested either Freda McKey or Julie, to obtain a copy of Tim Moriarty's candidacy papers, and someone from the Elections division faxed over copies of the paperwork in Tim's file. Ms. Moriarty stated that upon receiving the faxed copies she found that the original candidacy for nomination had not been signed by Timothy Moriarty or Barbara B. Campbell. Ms. Moriarty then contacted Joe Carroll, the head of Elections, and informed him of what had happened and asked him what should be done to correct the problem and if Timothy was a candidate in lieu of the lack of signature on the form, Ms. Moriarty stated that Joe advised her that it was a human error and an oversight on the part of staff and that Timothy should not be punished for their mistake. Joe advised that Timothy Moriarty and Barbara Campbell needed to come in and sign the paperwork to make it official. I then asked Ms. Moriarty if she contacted either her staff attorney, Randy Sparks, or Roger Brown to obtain their advice on this issue, and Mrs. Moriarty responded that she contacted neither Mr. Sparks or Mr. Brown to get their legal opinion on what should be done. Mrs. Moriarty stated that she took Joe Carroll's advice since he was the Elections official and did what he suggested. I then asked Ms. Moriarty if she contacted her son,

Tim, concerning the problem with his candidacy. Ms. Moriarty stated that she did contact him and informed him that he needed to come by the office the next time he was in town and sign the original paperwork.

I then asked Ms. Moriarty if she still had the fax that was sent over by the Elections officials concerning the paperwork in Timothy Moriarty's file. Ms. Moriarty stated that she was not sure if she had the paperwork or not and that she would search for the fax of the document which she obtained from the Elections office.

Ms. Moriarty had an engagement that she was late for, and she requested that we continue this discussion later. I then asked Ms. Moriarty if she would give me some handwriting exemplars with her signing her son's signature, and she agreed to do so. Ms. Moriarty then filled out exemplars at my direction which included her signing her son's signature. At the conclusion of taking the handwriting exemplars I asked Mrs. Moriarty if she signed Timothy Moriarty's name to the declaration of candidacy for nomination and she stated she didn't sign his name to the form. I then asked Mrs. Moriarty if she signed Timothy Moriarty's name to his personal financial disclosure statement and on the advice of her counsel, Roger Brown, Mrs. Moriarty would not answer the question.

declaration of candidacy for nomination and ask her if she had signed Timothy Moriarty's name to the form, she stated she had not.

I then..... Timothy Moriarty and asked her if she had signed that form, and on the advice of her counsel, Mr. Brown, Ms. Moriarty did not answer the question. I then ask her if she had filled out the candidacy

worksheet for the 1994 primary election, she stated that she did not. I then ask her if she signed Timothy Moriarty's name to the candidacy exemption form, and she stated that she did not.

The interview was then concluded and prior to our leaving I served Ms. Moriarty with a grand jury subpoena for her appearance in front of the grand jury on June 22, at 9:30 a.m. I asked Ms. Moriarty if we would be able to continue our discussion prior to the grand jury meeting, and she stated that she would be more than willing to and arrangements were being worked out for another meeting prior to the grand jury date. The interview was concluded. No further information was obtained.

INTERVIEW WITH JUDY MORIARTY

On June 20, 1994, at 3:30 p.m., Mike Gilligan and myself interviewed Judith Moriarty in her office, second floor of the Capitol Building. Present in the room with Ms. Moriarty was her attorney, Roger Brown.

Prior to initiating the interview, Mr. Brown showed me a list of candidates which Ms. Moriarty had at her desk. The list was generated on March 29, 1994. Mr. Brown drew my attention to the state representative's race for the 56th District. On the computer generated list for March 29, 1994, appears the name of Timothy (Tim) Moriarty. Mr. Brown also stated that the date and time generated on the computer could be changed, however, it is a difficult procedure. Mr. Brown was not sure how many people would have actually known how to do it. Mr. Brown stated that I might want to talk to Hal Herbert who handles the computer equipment for the Secretary of State's office. Mr. Brown also stated that Margaret Freeman, who works in the Elections office, on the first day of filing brings the clock stamper over to the Secretary of State's office in the Capitol Building. Mr. Brown stated that the clock timer can be manipulated so as it can be changed or altered for date and time. Mr. Brown said this was a difficult task, and he did not know anyone else other than Margaret Freeman who knew how to operate the clock stamper. Mr. Brown gave me a copy of the 3-29-94 list of candidates generated by the Secretary of State's computer system.

I then asked Ms. Moriarty when Tim had been informed by his employer that there was no conflict of interest in him filing for a representative. Ms. Moriarty stated that she believed it was probably around the 28th, Monday, that she had a conversation with Tim about getting the okay from Labor. She was sure that Tim had received a verbal approval prior to the filing deadline. Ms. Moriarty also stated that she had contacted Randy Sparks, attorney for the Secretary of State's office, and that he had done some research and it was his opinion that there was no conflict of interest for him filing for the representative seat. I then asked Ms. Moriarty if his final decision to run was based on what was said by his employer, the Division of Labor. Ms. Moriarty said no that Tim was going to run but that he did wait to see if he was going to be able to keep his job. He wanted to keep his job so he could pay the bills and keep it for as long as he could, but he was committed to run. She did say she would help Tim out if need be. Ms. Moriarty then stated that on March 29, 1994, she had a telephone call from Tim wanting to make sure everything was in order for his candidacy. Ms. Moriarty stated that she then contacted either Nadine or Barbara and asked them if everything was in order for his filing and she was told everything was fine. Ms. Moriarty did not remember whether it was Barbara or Nadine that she had actually talked with. I then asked Ms. Moriarty if she called Tim back and talked with him. She stated that she did. She called him back and told him that everything was fine and that he was filed for the seat.

I then asked Ms. Moriarty why Tim was concerned about his

filing if, in fact, he had filed on the 21st like she and Tim had maintained. She stated that she did not know why there was a concern. I then asked her was the concern because he hadn't filed and he waiting for word from the Labor office prior to the filing. She stated that she thought that was probably what it was. I then asked her that at the time he filed or filled out the paperwork he did not file for the office and that the phone call he made to her was to make sure that the papers had now been filed for his candidacy. She stated that was true. Ms. Moriarty stated that Tim told her to make sure the paperwork is filed and that is when she contacted either Barb or Nadine to make sure that paperwork was filed. I then asked her if she saw her son on that day or if her son was in the office on March 29, 1994, and she stated that he was not, and that he was at his home in Kansas City.

I then asked Ms. Moriarty how the actual flow of paperwork went for a filing of a candidate. Ms. Moriarty was not familiar with the filings and where they were kept or how the actual filings took place. She knew the office they were maintained in once they went over to Elections, but as far as the actual flow of the paperwork she stated she was not familiar with how that paperwork went.

In further discussion with Ms. Moriarty, she told us that she believed she may not have been in the office on the 29th of March. So she checked with her assistant that makes her scheduling, and it was found out that on the 29th between 11:30 and 1:30 she met with the Randolph County Extension group. Then somewhere from 12:00 to 1:15 she was with the Park Hill High School. Then also around

12:30, there was the Northeast Teachers Association group. In approximately a two-to-three hour time period, she met with all three of these groups. Her schedule also showed that between 5:30 and 7:30 she went to a reception for the petroleum lobby.

I then asked Ms. Moriarty if she was aware that on March 31 Tim had a meeting with Colleen Baker concerning his candidacy and the Labor Relations viewpoint on his campaign. Ms. Moriarty stated that she was aware of the meeting and knew that he had talked with them about what he could and couldn't do as far as running his campaign and his employment.

I then asked Ms. Moriarty about the finding of the problem with Tim's paperwork. She stated she discovered the problem when the fax from the Secretary of State's office, the Elections Division, was sent to her. Ms. Moriarty stated that she was attempting to fill out some Ethics Commission paperwork for Tim that was due in by the end of March and this was sometime in late April. Ms. Moriarty stated that Tim had gotten a letter for failure to file on time and that she was assisting him in helping to get his paperwork in order so he could get it filed with the Ethics Commission. She stated that upon finding this problem with the signature not being filed, she called to talk to Joe Carroll. He told her that it was a clerical error. Ms. Moriarty then contacted Randy Sparks, legal counsel for the Secretary of State, who informed her that what needed to be done was for the candidate to sign and Ms. Campbell to sign the forms and that would correct it.

I then asked Ms. Moriarty why she now says that she had contacted Randy Sparks, the attorney for the Secretary of State's office, when during the first interview when I talked with her she stated that she had not contacted Mr. Sparks. I told her that I had asked her numerous times if she had contacted either Mr. Sparks or Mr. Brown concerning this and she stated at that time she did not and now she had changed her story, saying that she now has contacted Mr. Sparks concerning this. Ms. Moriarty when asked if her memory had gotten better did not answer the question and did not give me a direct answer when asked several times why now she had changed her story about who she contacted. In our initial interview, Mrs. Moriarty had also said that she had immediately called Tim and told him to come down and sign after consulting with Mr. Carroll. Now Mrs. Moriarty stated that there was a couple days delay until she got an opinion from Randy Sparks before she called Tim and instructed him to come down and sign the form. I then asked Ms. Moriarty if anyone else from her office had contacted Tim concerning this problem with his candidacy, she stated she was not aware of it, that she did not know if someone else had called him or not. She stated that Tim did not come down for several days that when he did come down he was coming to a meeting at work and then he did stop by and sign the paperwork. I asked her which office he would have went to to sign the paperwork, and she stated that he would have went to the Elections office in the Informations Center to sign the documentation. I asked her if she knew who had given him the paperwork or witnessed the signature on the paperwork, she stated she did not who had given him the paperwork

to sign or who had witnessed him signing.

I then held up copies of the affidavit for declaration of candidacy for Timothy Moriarty and asked Judith Moriarty if she had signed Timothy Moriarty's name to the form. She stated that she did not sign his name. I then asked Ms. Moriarty about the statement of exemption or rejection by the Missouri Ethics Commission. Ms. Moriarty looked at that form and stated that she had signed Tim Moriarty's name to the form. I then held up and showed Ms. Moriarty a copy of the personal financial disclosure statement signed by Timothy Moriarty. I asked her if she had signed that form for Timothy Moriarty. She stated she had not. I then asked her if she had filled out the personal financial disclosure statement, and she stated she may have filled out the form for him. I then asked her if she did fill out the form, and she stated she may have. I then asked her if she witnessed Timothy Moriarty sign the personal financial statement. She first stated that she may have. I then said were you sitting around the table with him filling out the form, and she stated that she was. I said then did you see him sign the form, and she stated that she did. Ms. Moriarty stated that she had signed the statement of exemption or rejection form for Timothy Moriarty at his request to avoid being fined for failing to submit the report in a timely manner.

At the conclusion of the interview I asked Ms. Moriarty for more signatures. She agreed to do this. I took handwriting exemplars from Judith Moriarty signing Timothy Moriarty and Tim Moriarty's name to paper. At that point, the interview was concluded, and no further information was obtained.

INTERVIEW WITH TIMOTHY MORIARTY

On June 16, 1994, at approximately 9:20 a.m., I met Timothy John Moriarty at the Perkins Restaurant located at the intersection of 50 Highway and 291 Highway in Lee's Summit, MO. The purpose of my contact with Mr. Moriarty was to interview him concerning his filing for candidacy in the Democratic Primary for State Representative for the 56th District. Present during the interview was Timothy John Moriarty and myself.

Pertinent information: Timothy Moriarty

Address: Route 4, V62 Lake Lotawana, MO

Social Security # 492-86-4425 D.O.B. 10-24-66

Home Telephone: 816/578-4372

Employment: Division of Labor Standards, State of Missouri

Title: Investigator - wage an hour

I first asked Mr. Moriarty when he first decided to run for State Representative for the 56th District, and his response was he first thought about it prior to Christmas of 1993. Mr. Moriarty stated that he had discussed it with his mother about his running for the office, and basically, she encouraged him but it was not her decision on his running. Mr. Moriarty stated that he finally made a decision on running for the office a week or two prior to March 21 of 1994. Mr. Moriarty, prior to filing for the office on the 21st, contacted his employer, Division of Labor Standards for the State of Missouri, and talked with his supervisor, Colleen Baker, about his filing for the representative seat.

Mr. Moriarty stated that on the 21st of March, 1994, sometime

just prior to noon, he arrived in Jefferson City from Kansas City and contacted Colleen Baker in her office in the Division of Labor Standards. At that time, Mr. Moriarty told Ms. Baker about his intentions of running for the state representative seat. Mr. Moriarty stated that when he told Ms. Baker that he "blew her socks off." Mr. Moriarty stated that Ms. Baker expressed some concern about possible conflicts with his present job and his running for the representative seat. Ms. Baker was concerned about a potential conflict and informed Mr. Moriarty that she would have to check with her supervisors and also get an opinion on whether Mr. Moriarty could maintain his employment with the agency while running for the office. I asked Mr. Moriarty if his employment with the agency was more important to him than filing. He stated that he would like to have maintained his employment with the agency because that was his only source of income, but he was going to run for the office anyway, whether he could maintain his job or not. Mr. Moriarty did, however, state that he requested the opinion from Colleen Baker and the Division of Labor Standards prior to the filing deadline of March 29 and requested them to give him an opinion prior to that. I asked him if he was holding off filing until he got the opinion, and he stated yes that he had held off on was holding off initially until he received the opinion. Mr. Moriarty expressed some concerns over what his employer, the State of Missouri and Division of Labor Standards thought of his candidacy.

After leaving the Division of Labor Standards, Mr. Moriarty then went to the Secretary of State's office, particularly the

Capitol office, to file for the district representative seat. Mr. Moriarty stated that he talked with his mother in her office at that time concerning this and told her that he had notified his employer about running which was also a concern of his mother's. Mr. Moriarty stated that he was assisted in his filing by Barbara Campbell, an employee of his mother at the Secretary of State's office. Mr. Moriarty initially paid the \$50 filing fee, then he was shown a copy of the receipt which he looked at and stated that it was a true and accurate copy of the receipt. He then produced a yellow copy of the original receipt which he received that day. A review of the numbers on the receipt were the same with the yellow copy that Mr. Moriarty had in his possession and the copy of the original document which I had in my possession. I asked Mr. Moriarty who had filled out the official receipt and he stated that Ms. Campbell had filled out the receipt and that she had taken the \$50 cash filing fee. I asked Mr. Moriarty how he obtained the \$50 cash, whether he had cashed a check or withdrew the money from a bank account, and he stated that he had the \$50 cash in his pocket that he had not been to the bank or made any withdrawals on that date.

Next Mr. Moriarty completed the worksheet for his candidate filing which consists of his name, address, precinct where he lives, the office for which he is running, the political party which he is filing under, and a form of identification. Mr. Moriarty stated that he filled this form out in his own handwriting, and it was completed on the 21st of March, 1994. After completing the candidate worksheet, Mr. Moriarty stated that

Barbara Campbell then generated a declaration of candidate for nomination from a computer listing his name, precinct number, township, county, the office for which he is running, the party for which he was running, address, and also an affidavit portion which would bear both the signature of the candidate and the signature of the officer accepting the declaration. Mr. Moriarty stated he remembers specifically on that date reviewing the document because it was explained to him at the time it was very important that his name, address and all the other information appear correctly on the document because that was the way it was to appear on the ballot. Mr. Moriarty stated that he was particularly interested in the name because he had Timothy J. (Tim) on the candidacy papers, and he wanted to make sure that it was correct. After completing the form and reviewing it, there was a discussion between Mr. Moriarty and Ms. Campbell concerning signing the form. Mr. Moriarty stated that he wanted to sign the form at that time but that Ms. Campbell would not let him sign the form. Mr. Moriarty stated that Ms. Campbell advised him not to sign the form until he had received the proper okay for running from his employer, the Division of Labor Standards. Mr. Moriarty stated that he knew he had not signed the document at the time but that he had done so because Ms. Campbell had advised him not to. I again asked Mr. Moriarty if he was waiting on an opinion from his employer, Labor Standards, before filing. He stated that he was, but he was going to file whether they gave the approval or not. Mr. Moriarty stated that after leaving the office that day he had felt he had already filed for the office of State Representative for District 56.

Mr. Moriarty, however, was aware that he had not signed the declaration for candidacy nomination and was waiting at the request, he stated, of Barbara Campbell until the decision was made.

I then asked Mr. Moriarty when he had been contacted by Colleen Baker concerning the decision by Labor Standards. Mr. Moriarty stated that approximately two days prior to the filing deadline he had received a telephone call from Colleen Baker giving him the approval to file for the office and maintain his employment with Labor Standards. Mr. Moriarty stated that an outline was given to him of the dos and don'ts of him campaigning for the office and the potential conflicts that may arise with him working for that office and running for office. Mr. Moriarty stated that an opinion had been given by the Governor's office and also from the attorney for Labor Standards concerning his candidacy for the house seat. Mr. Moriarty believed that this was in writing and that he had received a letter and also a list of dos and don'ts for his candidacy which, I believe, he was required to sign. Mr. Moriarty stated that his actual meeting with Colleen Baker did not occur until a few days after the filing deadline at the office in Jefferson City.

I then questioned Mr. Moriarty concerning the 29th day of March, 1994, the final day of filing for the candidacy of State Representative for District 56. I asked Mr. Moriarty if he was in Jefferson City on that date and in the Secretary of State's office, and his response was no. I then showed Mr. Moriarty a computer-generated declaration of candidacy for nomination which bore his

name and signature for the office he was running for. I directed Mr. Moriarty's attention to the date that this document had been purportedly signed and sworn before by himself and Barbara B. Campbell. The date listed on the form was the 29th of March, 1994, at 1:19 p.m. I asked Mr. Moriarty if he had been in Jefferson City, reviewed this document, and signed this document on the 29th day of March, 1994, at 1:19 p.m., and his response was no. I then asked Mr. Moriarty if that was his signature on the document that I had shown him, and he stated that it was his signature on the document. I then asked Mr. Moriarty why the 29th day of March, 1994, at 1:19 p.m. had been entered on the document if he had not signed it at that time. He stated that he did not know. I then asked Mr. Moriarty when he had signed this document, and he stated that he had actually signed the document the first part of May of 1994 after having been contacted by a male employee of the election division concerning his signature missing from the declaration of candidacy for nomination.

I asked Mr. Moriarty if he knew who the employee was from the election division that had called him, and he stated that he did not know. All he knew it was a male individual who had called him and notified him of this signature problem. Mr. Moriarty stated that this individual had told him that they had discovered that the declaration of candidacy nomination had not been filed and that he needed to come down and sign the document, that it was not his fault that the document had not been signed. Mr. Moriarty stated that he had discussed this with his mother at some later time and there was no real concern on his or her part concerning this

because it was felt it was an error made by an employee of the Secretary of State's office. I then asked Mr. Moriarty if it was not true that he had known that he had not signed the declaration of candidacy form on the 21st when he filed it. He stated that was true but that he had done so because Barbara Campbell had advised him not to sign the form at that time. I then asked Mr. Moriarty if it still was not his decision on whether to sign the form or not, that he was actually the candidate running and that whatever was happening he made the ultimate choice. He stated that was true but that he acted upon Ms. Campbell's advice.

I then asked Mr. Moriarty about his employment, if he kept a calendar or any other type of notes or log concerning his employment where he could tell me his location or where he was at on the 29th day of March, 1994, at 1:19 p.m. He stated that he did not have any calendar or records that would help him give me the location of where he was. He stated, however, that he was not in Jefferson City on that date and did not sign the document on that date. I asked Mr. Moriarty if he would have been working on the 29th, and he stated that he would have been working that day. He just did not keep or maintain any records concerning his employment or where he would have been during that day. I asked him about an activity sheet that he would have kept or maintained for his employment, and he stated that he did not keep one that they had requested him to keep one but he had not. I then asked him about his job status with the Division of Labor. Mr. Moriarty stated that he had tendered his resignation on June 9, 1994, and that he was not on administrative leave from the Division of Labor and that

his job termination was for June 30, 1994. Mr. Moriarty stated that he had left his job so that he could campaign full time for the House of Representatives seat for which was running.

I then asked Tim Moriarty if he had directed his mother, Judith Moriarty, to sign his declaration of candidacy for nomination and file it on the 29th day of March, 1994, at 1:19 p.m. He stated that he had not. I also asked him if he had later asked his mother to sign the form after it was discovered, and he stated that he had not. Mr. Moriarty stated that to his knowledge his mother was not aware of any problems with his candidacy until after the fact, and the problem had been corrected.

The interview was concluded at approximately 11:00 a.m. on June 16, 1994.

I had and have every intention to be the best candidate possible for the Missouri House District seat from the 56th District.

Because of a clerical error by Barbara Campbell and her misinformation to me and my Mom, I did not sign my candidate declaration page when I appeared in the secretary of state's office during the filing period.

However, I was led to believe that I was a properly filed candidate by Barbara Campbell. Likewise, my Mom thought I was a filed candidate. Even the office of elections thought I was a properly filed candidate.

I am today withdrawing my candidacy, I believe I have done nothing wrong. I know my Mom has done nothing wrong and I hope this brings a close to this unfortunate situation.

My Mom is an honest person and a dedicated public servant as Secretary of State.

Statement made by
Jim Moriarty

exhibit 8
35

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

STATE OF MISSOURI, Plaintiff,

vs.

JUDITH K. MORIARTY,
Defendant.

Case No. CR194-97M

OCN No.

FILED
AUG 28 1964

CLERK, CIRCUIT COURT
COLE COUNTY, MISSOURI

INDICTMENT
COUNT I

The Grand Jurors of the County of Cole, State of Missouri for
Count I, charge that the defendant, Judith K. Moriarty, in
violation of Sections 115.641, 115.349 and 115.355, RSMo., committed
the class A misdemeanor of a class four election offense,
punishable upon conviction under Section 115.637 RSMo., in that in
the County of Cole, State of Missouri, the defendant, acting with
Barbara B. Campbell, knowingly and purposely caused, directed and
permitted a Declaration of Candidacy on behalf of Tim Moriarty for
the office of State Representative, 56th District, to be filed in
the Office of Secretary of State on March 29, 1994, when in fact
Tim Moriarty did not appear in the Office of Secretary of State on
March 29, 1994, and the defendant knew that Tim Moriarty did not
appear in the Office of Secretary of State on March 29, 1994, and
this action constituted a violation of the defendant's duty to
enforce the election laws and require compliance by candidates,
specifically Sections 115.353, 115.349 and 115.355, which required
that candidates appear and file in person unless they were
disabled, in the armed services, or nominated by a party nominating
committee, none of which exceptions were applicable to the Moriarty
Declaration of Candidacy.

COUNT II

The Grand Jurors of the County of Cole, State of Missouri, for Count II, charge that the defendant, Judith K. Moriarty, in violation of Section 575.110, RSMo, committed the class A misdemeanor of tampering with a public record, punishable upon conviction under Sections 558.011 and 560.016 RSMo, in that during late April or early May, in the County of Cole, State of Missouri, the defendant, acting with others, with the purpose to impair its verity, knowingly caused the false alteration of a public record maintained by the Office of Secretary of State, to-wit: a Declaration of Candidacy without any signatures subscribed thereto, filed on March 29, 1994, in the name of Tim Moriarty for the office of State Representative, 56th District, by directing and causing the signatures of Tim Moriarty and Barbara B. Campbell to be written onto said Declaration in late April or early May 1994, after the filing deadline had passed and after the Declaration of Candidacy had become part of the records of the Office of Secretary of State, with the purpose to impair the verity of said record of the Office of Secretary of State so that after said signatures were subscribed to the Declaration, it no longer appeared that the Declaration of Candidacy was filed without signatures subscribed thereto but rather appeared that the Declaration of Candidacy was subscribed and sworn to by Tim Moriarty in person on March 29, 1994, at 1:19 p.m., in the presence of Barbara B. Campbell, and that Barbara B. Campbell signed and attested to such filing, signing, and swearing or affirming on March 29, 1994, at 1:19 p.m. when in fact Tim Moriarty did not appear in the Office of Secretary

of State on March 29, 1994, at 1:19 p.m. and did not sign, subscribe to and swear or affirm to his Declaration of Candidacy at that time in the presence of Barbara Campbell.

COUNT III

The Grand Jurors of the County of Cole, State of Missouri, charge that the defendant, Judith K. Moriarty, for Count III and in the alternative to Count II, in violation of Section 570.110, RSMo, committed the class A misdemeanor of issuing a false certificate, punishable upon conviction under Sections 558.011 and 560.016, RSMo, in that on or about late April or early May in the County of Cole, State of Missouri, the defendant, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Tim Moriarty; and further knowingly directing and causing that the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the additions of the signatures of Tim Moriarty and Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said

Declaration of Candidacy in her presence at that time.

A true bill

Paul P. Bruemmer
Foreperson

Richard G. Callahan
Richard G. Callahan #24290
Prosecuting Attorney

Received and filed this _____ day of August, 1994, and bail shall remain the same.

Myra Hasselhorst
Circuit Judge

STATE OF MISSOURI }
COUNTY OF COLE } ss

I, LINDA L. ROARK, Clerk of the Circuit Court of Cole County, Missouri, hereby certify that the above and foregoing is a full true and correct copy of

Indictment
as fully as the same remains of record in my said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my said office this 2nd day of September 1994.
LINDA L. ROARK, Clerk

By Myra Hasselhorst
Circuit Court of Cole County Missouri Deputy Clerk

WITNESSES FOR STATE

Barbara Campbell
Margaret Freeman
Colleen Baker
Joseph Carroll
Gene Wiseman
Shirley Nadine Barrows
Timothy Moriarty
Pamela Parker
George R. Brooks
Richard Lee
Michael Gilligan
Bridget Schroeger
Shelly Stewart
Skip Nilges
James Huber
Marion Sinnett
Margaret Freeman
Julie Rodenburg
Glenn Hall
Norma Higbee
Chuck Hatfield
Ted Ardini
James A. Schutt
Hal Hebert
Sandra Moore
Cynthia Quetsch
Larry Weber
Terry Litton
Linda S. Layne
Custodian of Records, Office
of Secretary of State
Custodian of Records, Office
of Administration
Custodian of Records, Department
of Labor & Industrial Relations
Custodian of Records, Kansas City
Board of Elections Commission
Custodian of Records, Missouri
State Democratic Party
Custodian of Records, United
Telephone System

INSTRUCTION NO. 5

As to Count I, if you find and believe from the evidence beyond a reasonable doubt:

First, that on March 29, 1994, in the County of Cole

State of Missouri, the defendant ordered Barbara Campbell to file a Declaration of Candidacy with the Office of Secretary of State on behalf of Tim Moriarty for the Office of State Representative, 56th District, and

Second, that on March 29, 1994, Barbara Campbell filed a

Declaration of Candidacy with the Office of Secretary of State on behalf of Tim Moriarty for the office of State Representative, 56th District, and

Third, that the candidate, Tim Moriarty, did not appear in

the Office of Secretary of State on March 29, 1994, and

Fourth, that defendant knew that Tim Moriarty did not appear

in the Office of Secretary of State on March 29, 1994,

and

Fifth, that defendant engaged in the above conduct with the

intent of causing the filing of Timothy Moriarty for the

office of State Representative, 56th District,

then you will find the defendant guilty under Count I of a class four election offense.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

If you do find the defendant guilty under count I of a class four election offense, you will assess and declare one of the

following punishments:

1. Imprisonment in the county jail for a term fixed by you, but not to exceed one year.

2. Imprisonment in the county jail for a term fixed by you, but not to exceed one year and in addition a fine, the amount to be determined by the Court.

3. No imprisonment but a fine, in an amount to be determined by the Court.

The maximum fine which the Court may impose is \$2,500.00.

INSTRUCTION NO. 6

As to Count I, if you have a reasonable doubt as to whether:

First, the defendant ordered Barbara Campbell to file a

Declaration of Candidacy with the Office of Secretary of
State on behalf of Tim Moriarty for the office of State
Representative, 56th District, or

Second, the defendant acted with ~~the~~^{the} intent of causing the
filing of Timothy Moriarty for the office of State
Representative,

you must find the defendant not guilty under Count I of a class IV
election offense as submitted in Instruction No. 5.

As to Count III, if you find and believe from the evidence beyond a reasonable doubt:

First, that at all times relevant herein, the defendant and certain designated employees, including Barbara Campbell, were authorized by law to take acknowledgement of Declarations of Candidacy and to issue official certificates to the effect that the candidate appeared, subscribed and swore or affirmed to the information contained in the Declaration of Candidacy, and

Second, that in late April or early May, in the County of Cole, State of Missouri, the defendant purposely directed and caused Barbara Campbell to certify to an authentication to a Declaration of Candidacy, that Candidate Tim Moriarty had personally appeared on March 29, 1994, and had subscribed and swore or affirmed to the facts contained in his Declaration of Candidacy, and

Third, that at that time the Certificate and Declaration of Candidacy was partly blank in that Tim Moriarty had not yet signed the Declaration of Candidacy and said Certificate and Declaration further contained a false statement in that Tim Moriarty did not appear and subscribe to the Declaration of Candidacy on March 29, 1994, and

Fourth, that at that time the defendant knew that the Certificate and Declaration of Candidacy was partly blank or that it contained a false statement, and

Fifth, that defendant did not act with the reasonable belief
his conduct was lawful as submitted in Instruction No.

_____'
then you will find the defendant guilty under Count III of issuing
a false certificate.

However, unless you find and believe from the evidence beyond
a reasonable doubt each and all of these propositions, you must
find the defendant not guilty of that offense.

If you do find the defendant guilty under Count III of issuing
a false certificate, you will assess and declare one of the
following punishments:

1. Imprisonment in the county jail for a term fixed by you,
but not to exceed one year.

2. Imprisonment in the county jail for a term fixed by you,
but not to exceed one year and in addition a fine, the amount to be
determined by the Court.

3. No imprisonment but a fine, in an amount to be determined
by the Court.

The maximum fine which the Court may impose is \$1,000.00.

FILED

VERDICT

SEP 10 1994

CLERK OF COURT
COUNTY OF MISSOURI

As to Count I, we, the jury, find the defendant, Moriarty, guilty of a class IV election offense as submitted in Instruction No. 5.

We assess and declare the punishment at

The Jury was not able to reach
A unanimous decision as to Guilty
or Not Guilty

FOREMAN

Select one of the following and write it in the above blank. If your selection includes imprisonment, insert the time period.

1. Imprisonment in the County Jail for a term fixed by you, but not to exceed one year.
2. Imprisonment in the County Jail for a term of years fixed by you, but not to exceed one year and in addition a fine, the amount to be determined by the Court.
3. No imprisonment but a fine, the amount to be determined by the Court.

The maximum fine which the Court may impose is \$1,000.00.

STATE OF MISSOURI

COUNTY OF COLE

LINDA L. ROARK, Clerk of the Circuit Court of Cole County, Missouri,
hereby certify that the above and foregoing is a full, true and correct copy of

Verdict

as fully as the same remains of record in my said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the
seal of my said office, this 2nd day of September, 1994
LINDA L. ROARK, Clerk

Circuit Court of Cole County, Missouri

By Mary Hazelquist
Deputy Clerk

SEP 10 1994

VERDICT

CLERK COURT
COLE COUNTY, MISSOURI

As to Count III, we, the jury, find the defendant, Judith K. Moriarty, guilty of issuing a false certificate as submitted in Instruction No. 10.

We assess and declare the punishment at

No Imprisonment but a Fine; Amount to be determined by the Court

Stephen M. Foster
FOREMAN

Select one of the following and write it in the above blank. If your selection includes imprisonment, insert the time period.

1. Imprisonment in the County Jail for a term fixed by you, but not to exceed one year.
2. Imprisonment in the County Jail for a term of years fixed by you, but not to exceed one year and in addition a fine, the amount to be determined by the Court.
3. No imprisonment but a fine, the amount to be determined by the Court.

The maximum fine which the Court may impose is \$1,000.00.

STATE OF MISSOURI }
COUNTY OF COLE } ss

I, LINDA L. ROARK, Clerk of the Circuit Court of Cole County, Missouri, hereby certify that the above and foregoing is a full true and correct copy of

Verdict
is fully as the same remains of record in my said office.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of my said office this 2nd day of September 1994.
LINDA L. ROARK, Clerk

Circuit Court of Cole County, Missouri

By

Deputy Clerk

Mary Haselhorst

IV. DRAFT ARTICLES OF IMPEACHMENT

In the order of consideration by the Committee, unamended.

PAGE			
IV - 57	Article 1	Defeated 2-3	
IV - 59	Article 2	Adopted 5-0	Reported as Article 2
IV - 61	Article 3	Adopted 4-1	Reported as Article 5
IV - 63	Article 4	No motion	
IV - 65	Article 5	Defeated 1-4	
IV - 67	Article 1A	Adopted 3-2	Reported as Article 1
IV - 69	Article 2A	Adopted 5-0	Reported as Article 3
IV - 71	Article 2B	Adopted 5-0	Reported as Article 4
IV - 73	Article 6	Adopted 4-1	Reported as Article 6

ARTICLES OF IMPEACHMENT

ARTICLE 1.

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, was found guilty by a jury in Cole County in Case No. CR194-97M of improperly issuing a false declaration of candidacy in the filing of her son's candidacy for the office of state representative, and is subject to sentencing on such matter, and thus committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on

behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Tim Moriarty; and further knowingly directing and causing that the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the additions of the signatures of Tim Moriarty and Barbara Campbell, the certificate falsely stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of the commission of a crime in connection with her office, the crime of issuing a false instrument or certificate, a class A misdemeanor as defined in Section 570.110, RSMo, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 2

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Tim Moriarty; and further knowingly directing and causing that the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the additions of the signatures of Tim Moriarty and Barbara Campbell, the certificate falsely stated

that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time,

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 3.

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that Judith K. Moriarty knowingly and purposely caused, directed and permitted a Declaration of Candidacy on behalf of Tim Moriarty for the office of State Representative, 56th District, to be filed in the Office of Secretary of State on March 29, 1994, when in fact Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and Judith K. Moriarty knew that Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and this action constituted a violation of Judith K. Moriarty's duty to enforce the election laws and require compliance by candidates, specifically Sections 115.349, 115.353 and 115.355, RSMo, which required that candidates appear and file in person unless they were disabled, in the armed services, or nominated by a party nominating committee, none of which exceptions were applicable to the Tim Moriarty Declaration of Candidacy.

That by the doing of the acts aforesaid Judith K. Moriarty

was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 4.

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about May 10, 1994, Judith K. Moriarty filed an exemption from filing certain campaign finance reports pursuant to Section 130.016, RSMo, on behalf of Tim Moriarty by obtaining a copy of his signature from a file in her office and signing the name of Tim Moriarty to such exemption without designating that she was signing on behalf of Tim Moriarty, where the requirements of Section 130.016, RSMo, state that the candidate must file a sworn exemption statement in order to receive the exemption from filing other reports under Chapter 130, RSMo.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the

public trust.

ARTICLE 5.

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that the Office of Secretary of State under Judith K. Moriarty was generally mismanaged in that there were no clear personnel policies and no clear lines of authority, there was improper designation of duties and responsibilities of personnel to such a degree that the personnel responsible for the filing of candidates were not instructed on the statutory requirements for the filing of candidates, and the office procedures established for the filing of candidates were inadequate to properly and efficiently file candidates for office, and that such practices constitute incompetency rising to the level where the integrity of the electoral process has been threatened.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of incompetency in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of

Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 1A

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Tim Moriarty; and further knowingly directing and causing that the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the additions of the signatures of Tim Moriarty and Barbara Campbell, the certificate falsely issued and

stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of the commission of a crime in connection with her office, the crime of issuing a false instrument or certificate, a class A misdemeanor as defined in Section 570.110, RSMo, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 2A

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the addition of the signature of Tim Moriarty, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty

was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 2B

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it not been signed by Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that

time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 6

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that:

(1) On or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the addition of the signature of Tim Moriarty, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time;

(2) On or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it not been signed by Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time; and

(3) Judith K. Moriarty knowingly and purposely caused, directed and permitted a Declaration of Candidacy on behalf of Tim Moriarty for the office of State Representative, 56th District, to be filed in the Office of Secretary of State on March 29, 1994, when in fact Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and Judith K. Moriarty knew that Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and this action constituted a violation of Judith K. Moriarty's duty to enforce the election

laws and require compliance by candidates, specifically Sections 115.349, 115.353 and 115.355, RSMo, which required that candidates appear and file in person unless they were disabled, in the armed services, or nominated by a party nominating committee, none of which exceptions were applicable to the Tim Moriarty Declaration of Candidacy.

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present against Judith K. Moriarty all matters stated above and do further find, charge and present that all of said matters and facts set forth in this article, in combination and cumulatively, constitute acts which are impeachable acts under Section 1 of Article 7 of the Constitution of the State of Missouri, and are acts that have shaken the faith and confidence of the citizens of the State of Missouri in their elected public officials, have brought disrepute to her high office, and have breached the public trust, and that by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of the commission of misconduct in office.

V. COMMITTEE REPORT WITH ARTICLES OF IMPEACHMENT

The Articles are numbered as they were reported from committee on October 5, 1994. The title sheet for the draft articles of impeachment (Section IV of this appendix) gives the equivalence of the articles reported to the articles as discussed and voted on in the transcript.

Note: On October 6, 1994, the House of Representatives adopted three articles of impeachment and transmitted them to the State Supreme Court. Article 2 was adopted by a vote of 103 to 42. Article 3 was adopted by a vote of 104 to 41. And Article 4 was adopted with a technical amendment, 103 to 40. The motions to adopt the other three articles were defeated by the House.

COMMITTEE REPORT

Mr. Speaker:

Your Special Committee on Impeachment, established under House Resolution No. 3 of the Second Extraordinary Session of the Eighty-seventh General Assembly, to which was referred the matter of whether there is good cause to impeach Secretary of State Judith K. Moriarty, begs leave to report that it has, upon hearing testimony of the parties involved and examining the relevant documents, concluded that there is good cause to impeach and recommends to the House of Representatives that the following articles of impeachment be adopted:

CHAIRMAN,

ARTICLES OF IMPEACHMENT

Preamble.

The House of Representatives of the Eighty-Seventh General Assembly of the State of Missouri, in their name and in the name of the people of the State of Missouri, under and by virtue of the authority vested in them by Sections 1 and 2 of Article VII, of the Constitution of the State of Missouri, do hereby exhibit, charge and present Articles of Impeachment against Judith K. Moriarty, Secretary of State of the State of Missouri, and give the Honorable Supreme Court to know and be informed:

That at the general election held in the State of Missouri on the 3rd day of November, 1992, Judith K. Moriarty was duly elected Secretary of State for a term of four years and took and subscribed to the oath of office on January 11, 1993, as Missouri's 34th Secretary of State;

And, thereupon, she, Judith K. Moriarty, assumed the duties of said office; that thereafter, Judith K. Moriarty, Secretary of State, unmindful of the high duties of her office and her oath of office, and in violation of the Constitution and the laws of the State of Missouri, committed various acts impeachable under the laws and Constitution of the State of Missouri in connection with her office; and the House of Representatives hereby exhibits and presents, to the Honorable Supreme Court of this State, Articles of Impeachment against said Judith K. Moriarty, as Secretary of

State, State of Missouri, for the causes, upon the grounds, and in the particulars as follows, to-wit:

ARTICLE 1

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct that the signature of Barbara Campbell be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Tim Moriarty; and further knowingly directing and causing that

the signature of Tim Moriarty be placed on the Declaration of Candidacy so that with the additions of the signatures of Tim Moriarty and Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of the commission of a crime in connection with her office, the crime of issuing a false instrument or certificate, a class A misdemeanor as defined in Section 570.110, RSMo, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 2

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its

chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Barbara Campbell to be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Tim Moriarty; and further purposely causing and directing or knowingly allowing the signature of Tim Moriarty to be placed on the Declaration of Candidacy so that with the additions of the signatures of Tim Moriarty and Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State

of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 3

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Tim Moriarty to be placed on the Declaration of Candidacy so that with the

addition of the signature of Tim Moriarty, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 4

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that on or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being

authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Barbara Campbell to be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 5

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that Judith K. Moriarty knowingly and purposely caused, directed and permitted a Declaration of Candidacy on behalf of Tim Moriarty for the office of State Representative, 56th District, to be filed in the Office of Secretary of State on March 29, 1994, when in fact Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and Judith K. Moriarty knew that Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and this action constituted a violation of Judith K. Moriarty's duty to enforce the election laws and require compliance by candidates, specifically Sections 115.349, 115.353 and 115.355, RSMo, which required that candidates appear and file in person unless they were disabled, in the armed services, or nominated by a party nominating committee, none of which exceptions were applicable to the Tim Moriarty Declaration of Candidacy.

That by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of misconduct in office, an impeachable offense under Section 1 of Article VII of the Constitution of the State of Missouri, and that such constitute acts which have shaken the faith and confidence of the citizens of the State of Missouri in their ability to have faith in their elected public officials, have brought disrepute to her high office, and have breached the public trust.

ARTICLE 6

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present that the said Judith K. Moriarty, while so acting as the Secretary of State of the State of Missouri, as aforesaid, contrary to the standards of conduct prescribed for an elected executive official of the state and its chief elections officer, committed acts impeachable under Section 1 of Article VII of the Constitution of the State of Missouri, in that:

(1) On or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did

personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Tim Moriarty to be placed on the Declaration of Candidacy so that with the addition of the signature of Tim Moriarty, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time;

(2) On or about late April or early May in the County of Cole, State of Missouri, Judith K. Moriarty, acting with others being authorized by law to administer and take oaths and affirmations of Declarations of Candidacy for the office of State Representative, an official instrument described in Section 115.349, RSMo, and to issue certificates that such candidates did personally appear, subscribe, and swear or affirm to the facts contained in the Declaration of Candidacy, did purposely cause and direct or did knowingly allow the signature of Barbara Campbell to be issued and placed on a certificate to a Declaration of Candidacy filed on behalf of Tim Moriarty for the office of State Representative which Declaration was partly blank in that it had not been signed by Barbara Campbell, the certificate falsely issued and stated that Tim Moriarty appeared in the presence of Barbara B. Campbell on March 29, 1994, at 1:19 p.m. and signed, subscribed, and swore or affirmed to said Declaration of Candidacy in her presence at that time; and

(3) Judith K. Moriarty knowingly and purposely caused, directed and permitted a Declaration of Candidacy on behalf of Tim Moriarty for the office of State Representative, 56th District, to be filed in the Office of Secretary of State on March 29, 1994, when in fact Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and Judith K. Moriarty knew that Tim Moriarty did not appear in the Office of Secretary of State on March 29, 1994, and this action constituted a violation of Judith K. Moriarty's duty to enforce the election laws and require compliance by candidates, specifically Sections 115.349, 115.353 and 115.355, RSMo, which required that candidates appear and file in person unless they were disabled, in the armed services, or nominated by a party nominating committee, none of which exceptions were applicable to the Tim Moriarty Declaration of Candidacy.

That said House of Representatives under authority of Section 2 of Article VII of the Constitution of the State of Missouri do find, charge and present against Judith K. Moriarty all matters stated above and do further find, charge and present that all of said matters and facts set forth in this article, in combination and cumulatively, constitute acts which are impeachable acts under Section 1 of Article VII of the Constitution of the State of Missouri, and are acts that have shaken the faith and confidence of the citizens of the State of Missouri in their elected public officials, have brought

disrepute to her high office, and have breached the public trust, and that by the doing of the acts aforesaid Judith K. Moriarty was and is guilty of the commission of misconduct in office.

